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II

(Preparatory Acts)

COMMITTEE OF THE REGIONS

Opinion of the Committee of the Regions on:

- **the ‘Communication from the Commission on the European social dialogue, a force for innovation and change’, and**
- **the ‘Proposal for a Council Decision establishing a Tripartite Social Summit for Growth and Employment’**

(2003/C 73/01)

THE COMMITTEE OF THE REGIONS,

having regard to the Communication from the Commission on the European social dialogue, a force for innovation and change and the Proposal for a Council Decision establishing a Tripartite Social Summit for Growth and Employment (COM(2002) 341 final — 2002/0136 (COD));

having regard to the Decision of the European Commission of 27 March 2002 to consult it on this matter, under the first paragraph of Article 265 of the Treaty establishing the European Community;

having regard to the Decision of its President of 7 May 2002 to instruct the Commission for Economic and Social Policy to draw up an Opinion on this subject;

having regard to the Communication from the Commission adopting and promoting social dialogue at Community level, and Draft Council Decision amending Decision 70/532/EEC setting up the Standing Committee on Employment in the European Communities COM(98) 322 final);

having regard to the European Governance: a white paper (COM(2001) 428 final);

having regard to its Opinion on the Communication from the Commission adopting and promoting social dialogue at Community level, and Draft Council Decision amending Decision 70/532/EEC setting up the Standing Committee on Employment in the European Communities (CdR 343/98 fin) ⁽¹⁾;

having regard to its Opinion on European Governance: a White Paper (CdR 103/2001 fin) ⁽²⁾;

having regard to its Draft Opinion (CdR 250/2002 rev.) adopted on 25 September 2002 by the Commission for Economic and Social Policy (Rapporteur: Sonny Berthold, Mayor of Egtved, (DK/ELDR));

whereas it seems clear that the traditional models of governance no longer cater for the complex reality of society today; and whereas political credibility and legitimacy are in deep crisis everywhere;

⁽¹⁾ OJ C 93, 6.4.1999, p. 54.

⁽²⁾ OJ C 192, 12.8.2002, p. 24.

whereas the debate on the new forms of governance must bring together the EU Member States and applicant states;

whereas it is desirable, in terms of the future of European integration, and especially enlargement, to present a comprehensive strategy on cross-border, inter-territorial and transnational cooperation,

adopted the following opinion at its 47th plenary session of 20 and 21 November 2002 (meeting of 20 November).

THE COMMITTEE OF THE REGIONS' VIEWS AND RECOMMENDATIONS

1. General comments

1.1. Following up previous communications on European social dialogue, the Commission Communication on the European social dialogue, a force for innovation and change⁽¹⁾ sets out a series of concrete measures designed to enhance social dialogue at all levels.

1.2. The CoR sees the continuity and development in the European social dialogue since 1985 as extremely positive, endorsing the view that social dialogue can be a force for economic and social reform.

1.3. The CoR considers the Commission communication to be a major contribution towards clarifying the increasingly important role which the partners in the social dialogue have taken on under the EU's overall strategic objectives of full employment and greater cohesion.

1.4. The CoR welcomes the Commission's presentation of possible concrete initiatives designed to enhance social dialogue at all levels.

1.5. The CoR intends to support the Commission's efforts to publicise the results of the European social dialogue.

2. The social dialogue as a means to better governance

2.1. The CoR entirely shares the Commission's assessment that it is the social partners' capacity to enter into a regular, autonomous dialogue and thereby to negotiate agreements independently that makes this dialogue unique.

2.2. The CoR agrees with the Commission's assessment of the influence the social partners have in civil society and is pleased to note the favourable results of partnerships at local level, especially in the area of employment, which have been developed as a new form of governance.

2.3. The CoR is convinced that the Commission's objective to improve the consultation procedure and to draft its own, internal code of conduct on consultation with the social partners will be a major contribution to improving the quality of legislation in the EU, especially in the area of the labour market. The CoR is also pleased to note the Commission's proposed initiatives regarding more effective involvement of the various levels and greater openness in the dialogue relating to enlargement.

2.4. The CoR declares its full support for the Commission's application of the subsidiarity principle in the labour market field as the principle implies that it is first and foremost a matter for the social partners to find suitable solutions within their areas of responsibility.

2.5. The CoR has taken note of the Commission's position on maintaining a clear distinction between the compulsory, systematic consultation of the social partners on the one hand, and the consultations which the Commission conducts in its consultative committees on the other, and the CoR agrees that there should be no conflation of the two processes, not even in cases where the social partners might be represented on one of the consultative committees.

2.6. The CoR has some reservations about the Commission's across-the-board calls on the social partners to improve their internal decision-making mechanisms in areas of crucial importance for the social dialogue, as the CoR is aware that this review process has already been undertaken or started in the case of several organisations.

2.7. The CoR fully agrees with the Committee that the visibility of social dialogue and the role of the social players should be reinforced. In this connection, it was interested to note the Commission's proposal to improve the available knowledge concerning experience of social dialogue on a territorial scale in Europe and urges the Committee to provide that the measures adopted in this connection should especially allow the identification and diffusion of experiences of resolutions on social agreement reached at the local and regional level, in order to be aware of best practice and to provide for an exchange of experience between the social agreement players at both local and regional levels in the Member States.

Furthermore, the CoR is very pleased to see that particular emphasis will be placed on the participation of the regional and local social partners in the forum on local development to be held in 2003.

⁽¹⁾ COM(2002) 341 final.

2.8. The CoR has observed the need to develop and improve Community level consultation with national authorities representing local and regional authorities/bodies. Currently there is no established coordination between the information, negotiation and decision-making process operating as part of EU social dialogue and the democratic decision-making process in Europe's municipal and regional boards, councils etc. Elected municipal and regional representatives in the EU can at present, in their capacity as employers' representatives, obtain information on EU labour market issues but as yet have no genuine possibility of exercising direct influence via their organisation, the CEMR, at EU level. It is unfortunate that the Commission fails to treat these employers with democratic roots in the local community — over 80 000 local authorities and regions in the EU with more than 9,4 million full-time employees — as a full partner in the social dialogue.

3. The social dialogue, a force for economic and social modernisation

3.1. The CoR endorses the Commission's positive assessment of the potential and development prospects of the social dialogue, which may lead it to become the modernisation tool proclaimed by the Lisbon European Council.

3.2. Bearing in mind the need to develop the best possible mechanisms to implement the overall European strategies announced at the Lisbon summit, namely full employment and the reinforcement of social cohesion, which call for a process of change through positive management, the CoR was interested to read the Commission's proposal to establish a social tripartite summit on growth and employment.

3.3. The CoR is pleased to see that the Commission — so soon after the 1999 review of the Standing Committee on Employment — has met the demand made by the social partners in their Laeken contribution that the Standing Committee be replaced by a new tripartite concertation.

3.4. The CoR welcomes the Commission's proposals that the social partners be involved in the preparatory work on the new rules for the proposed social tripartite summit and that they will be associated with the preparation and follow-up of the tripartite summits.

3.5. The CoR is pleased to note that the Commission Communication also contains a description of the other forums in which the social partners participate in the context of tripartite discussions in the EU and which have developed as a function of economic and monetary integration, the implementation of the internal market and meetings ahead of European Council meetings, i.e. the Cologne process, the Cardiff process and the troika meetings.

3.6. The CoR fully endorses the Commission's observation that the social partners could make a major contribution to change inter alia by committing themselves to take part in the open method of coordination, which was introduced as a new political instrument along with the Lisbon strategy.

3.7. The CoR, which is heavily involved in drawing up action plans at local and regional level inter alia as part of the Luxembourg process, is particularly pleased to welcome the Commission's clear undertaking to include the field of employment in the open coordination process and thus to consult the social partners prior to the drafting of the proposal for the employment guidelines.

3.8. With regard to the Commission's overall assessment of the bilateral social dialogue, its development, implementation of known legal instruments and the inclusion of new forms of cooperation, the CoR notes the critical stance taken by the Commission, especially in the section on the work of cross-industry organisations in such major areas as the negotiation and follow-up of agreements/declarations made, as well as reporting on national implementation. On this point the CoR would like to draw the Commission's attention to the results which the CEEP, UNICE and ETUC have achieved (since they entered into the Val Duchesse agreement in 1985), through bilateral negotiation in the form of e.g. European framework agreements, and most recently, in May 2002, the agreement on teleworking.

3.9. The CoR has followed initiatives to restructure the social dialogue in individual sectors with interest.

3.10. The CoR calls on the Commission to continue to monitor the development and ongoing work on setting up new committees when the necessary conditions are met.

4. The social dialogue and enlargement

4.1. The CoR welcomes the Commission's proposals regarding the candidate countries, especially the fact that the Commission wishes to commit itself to make full use of all financial instruments to increase the capacity of the social partners in the candidate countries.

4.2. The CoR urges the Commission to support the development of national structures for the social partners in the candidate countries, both across industries and at sectoral level, because such structures are a prerequisite if they are to take part effectively in European-level social dialogue.

4.3. The CoR welcomes the initiatives which the European social partners have already implemented in the candidate countries in collaboration with their sister organisations, of which several have already applied for and gained membership of the European organisation.

5. The CoR's views on initiatives to reinforce social dialogue at all levels

5.1. The term 'social dialogue' is coming to be used for any kind of activity involving the social partners. The CoR therefore calls on the Commission to continue to operate clear distinctions between the social partners' dialogue with the EU and bilateral dialogue conducted just between the social partners.

5.2. The CoR recognises and respects the role assigned to the Commission in the Treaty with regard to developing the social dialogue. However, the CoR would also encourage the Commission to continue in its future work to respect the intentions expressed by the cross-industry social partners in their contribution to Laeken to develop a more autonomous social dialogue and, in so doing, to set out more concrete measures in a joint work programme to ensure that the social dialogue is better organised.

5.3. The CoR endorses the application of the subsidiarity principle in EU labour market policy and sets great store by the social partners being involved when EU legislation resulting from a negotiated European agreement is to be implemented nationally. The CoR calls on the Commission to examine whether the Member States have taken necessary and responsible initiatives to include the social partners in the national implementation of such legislation.

5.4. The CoR encourages the Commission to consider how the CoR, which encompasses a broad range of experience with job-creation plans at regional and local level, may be involved in the work surrounding the tripartite social summits which the Commission proposes to introduce.

5.5. The CoR would once again insist that the Commission reassess the proposal on technical coordination of the employers' delegation in the tripartite social summits so as to ensure that employers from the public labour market are on an equal footing with private employers.

5.6. The CoR calls on the Commission, after discussions with the social partners, to take the initiative to develop further its ideas on the possible evolution of the social dialogue in the longer term to a scenario where European collective agreements are used as sources of law, so that this aspect can be considered in discussions on the coming Treaty reform.

5.7. The CoR suggests that the Commission collaborate with the social partners to carry out studies into mechanisms for settling disputes of interpretation arising from European agreements negotiated and entered into by cross-industry and sector-specific workers' and employers organisations.

5.8. The CoR supports the Commission's assessment of local-level partnerships, which can encompass whole towns or industrial areas. The CoR has noted the Commission's intention to establish a dialogue with the other players in civil society, including NGOs. The CoR appreciates that, if local partnerships are to succeed, the social partners should be involved. The CoR also calls on the Commission to make the necessary distinction between these players in civil society and the social partners, as only the latter directly represent the interests associated with the labour market and have the necessary capacity to enter into an independent dialogue which may result in collective agreements.

5.9. The CoR recommends that the Commission reassess the composition of a series of consultative committees with a view to exploring the possibility of giving the social partners the same status and position as in the Commission's Advisory Committee on Equal Opportunities for Women and Men, i.e. direct membership.

Brussels, 20 November 2002.

*The President
of the Committee of the Regions*
Albert BORE

Opinion of the Committee of the Regions on the 'Proposal for a Council Recommendation on the prevention and reduction of risks associated with drug dependence'

(2003/C 73/02)

THE COMMITTEE OF THE REGIONS,

having regard to the Proposal for a Council Recommendation on the prevention and reduction of risks associated with drug dependence COM(2002) 201 final — 2002/0098 (CNS);

having regard to the Decision of the Council of 10 June 2002 to consult it on this matter, under Article 152 of the Treaty establishing the European Community;

having regard to the Decision of its Bureau of 6 February 2002 to instruct Commission for Economic and Social Policy to draw up an opinion on this subject;

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 on the European Union action plan to combat drugs (2000-2004) COM(1999) 239 final;

having regard to its opinion on the Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on the European Union action plan to combat drugs (2000-2004), (CdR 292/1999 fin) ⁽¹⁾;

having regard to its opinion on the Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on the health strategy of the European Community and the Proposal for a Decision of the European Parliament and of the Council adopting a programme of Community action in the field of public health (2001-2006), (CdR 236/2000 fin) ⁽²⁾;

having regard to its draft opinion (CDR 225/2002 rev.) adopted on 25 September 2002 by the Commission for Economic and Social Policy (rapporteur: Mrs Paz Fernández Felgueroso, Mayoress and Chairman of the Council of Gijón, E/PES),

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

THE COMMITTEE OF THE REGIONS' VIEWS AND RECOMMENDATIONS

1. General comments

1.1. Human beings have used drugs since time immemorial. Social, cultural, religious and other factors have all played a part in influencing their use.

1.2. Drugs have always been a source of conflict in society, which tends to be ambivalent towards them. The various means of tackling the problems caused by drug use, and even the definition of the term 'drug', are heavily influenced by the social constructs and cultural representations that operate in different political and socio-economic contexts.

1.3. The drugs phenomenon brings with it a raft of problems related to highly diverse and complex factors such

as culture, fashion, new social behaviour patterns, changes in traditional social values, the breaking down of borders and globalisation — a whole range of influences which help to explain a situation which concerns and poses a major challenge for the whole of European society.

1.4. Attempts to tackle the problem must be based on a recognition that the phenomenon we are facing is universal and growing. Intervention must thus be planned and tailored to suit the specific context.

1.5. It is for this reason that the Committee welcomes with great interest the Commission's request to draw up an opinion. It wishes to highlight a number of areas of particular relevance from the perspective of local and regional authorities.

1.6. The Committee wishes to draw attention to several of the proposed areas for action, which it considers essential for any strategy to combat and prevent drug dependence, with a key role for local and regional authorities.

⁽¹⁾ OJ C 189, 7.7.2000, p. 256.

⁽²⁾ OJ C 144, 16.5.2001, p. 43.

2. The community

2.1. The creation of structures for the prevention and reduction of risks associated with drug addiction is important. Community measures can support measures in the Member States.

2.2. The most important actions are set out below:

- Information and distribution of targeted and non-targeted resources in the community of both a preventative and therapeutic or rehabilitation nature; such information must be adapted linguistically and culturally to the different groupings and bodies to which it is addressed.
- Raising the awareness of the various groups in the Community in order to optimise social and public participation, and thereby manage to lower the current level of disapproval for installing therapeutic resources in cities.
- Training of different actors such as teachers, parents, family and youth associations, etc., in order to gain an awareness of the problem and tackle it from an educational/preventive angle.
- Actions aimed at reducing alcohol and drug use: implementation of the law banning sales of tobacco and alcohol to minors, information campaigns, educational workshops, health weeks, courses open to the public, ...
- Generating funds for the integration of drug addicts in rehabilitation programmes into society and employment.
- Coordination of all resources available in the area concerned for the implementation of programmes and the creation of a community social framework to enable prevention and integration activities to be compared and improved.

3. Education

3.1. The educational sphere is an ideal arena in which to implement programmes and preventive or health promotion actions. Preventive work in schools requires programmes which impart knowledge and transmit values, attitudes and behaviour that discourage drug taking.

3.2. Drug education can be taught as part of health education. This approach enables children and teenagers to act responsibly and adopt lifestyles which are as healthy as possible by teaching them the necessary life skills and abilities.

3.3. Drug education programmes thus involve teachers, students and parents — i.e. the entire educational community. They should also seek to involve other groups in the wider community.

4. Youth

4.1. Information, education, the development of talents and the use of social skills all play a key role in providing young people with resources which promote healthy habits and behaviour in a society in which drugs are a reality.

4.2. Action must be organised through youth associations and youth mediators who are able to connect with young people and influence them in adopting lifestyles which are both healthy and appealing.

4.3. Specific and exclusive Youth Information Areas could act as a preventive resource at the service of young people, making information more accessible to them.

4.4. Action worthy of note that has been taken at local and regional level includes:

- Prevention training for youth mediators.
- Actions carried out by mediators to make information more accessible to young people.
- Information campaigns and materials designed to appeal to young people, including comics, audio-visual materials and music CDs.
- Alcohol free areas at parties and social events.
- Development of alternative leisure and free time programmes.
- Risk reduction programmes that act directly in places where stimulant synthetic substances are normally consumed.
- Workshops on the prevention of alcohol and tobacco abuse and prevention of HIV/AIDS.

5. Employment

5.1. The social dimension of work and its importance in peoples' lives make this an area of prime importance in preventing drug abuse and promoting healthy behaviour.

5.2. Action should be based on shared responsibility and the involvement of all stakeholders in the firm: management, medical services, trade unions and workers. Such action must form part of health promotion in general and comprise preventive measures that are aimed at reducing demand, tailored to individual situations and take account of working conditions. Trade union representatives have a key role to play in such programmes as mediators.

5.3. The following are important actions:

- Training of trade union representatives.
- Training of middle and senior management.
- Advice to firms.
- Dissemination of information through magazines and leaflets aimed at workers.
- Information and individual guidance.

6. Illegal trafficking and money laundering

6.1. A further cause for concern, to which the Committee wishes to draw particular attention, is the problem of drug trafficking and the closely linked phenomenon of money laundering, which is essential to trafficking operations. Drugs trafficking and money laundering are two (although not the only) ways in which organised crime is becoming more powerful across the world, helping it to extend its influence and operate in ever larger spheres with impunity, undermining the very structure of democratic States, in an unseen, but nonetheless constant manner.

6.2. A good drugs policy must take a global view of the problem as a whole, and must involve coordination of the different kinds of action planned. Clearly, prevention is crucial. But it is not enough to simply inform people of the dangers — the dangers themselves must be tackled. Attempts to wipe out trafficking must focus not only on investigating, pursuing and punishing those involved, but also on investigating how the illegal profit is moved and laundered and the earnings recycled and reinvested in the legal financial market.

6.3. There is an urgent need for a general framework for action, comprising various elements: a solid national system, extensive regional cooperation mechanisms involving different legal systems, mutual legal assistance, joint investigations, the definition of operational criteria and coordinated police action. The first priority should be to establish this system at EU level, and then to extend it on the basis of coordination.

6.4. The EU must remain mindful of the situation of the working classes in countries which produce illegal drugs. It must support the consolidation of democratic structures and sustainable development, thus enabling the millions of people who have hitherto relied for their survival on the production of the raw ingredients of illegal substances to live in dignity.

6.5. Combating organised crime must be seen not as an isolated task for individual States or for the different groups in society involved, but as a shared task that requires dialogue, joint effort and a uniform perspective with clear, pre-defined objectives. In this regard, the Committee believes that particular attention should be devoted to achieving progress in the following areas:

- Promoting legislative harmonisation, both in definitions of offences and procedures for pursuit and investigation.
 - Working for an end to tax havens.
 - Continuing work on framing a policy for criminal investigation and police assistance within the EU and communicating this need to the United Nations with a view to the creation of an organisational structure capable of responding to this new challenge.
 - Commitment to a single judicial area in this field.
 - Reinvestment of funds from the confiscation of assets obtained from the profits of illegal drugs trafficking in policies aimed at reducing demand and risk and in support for drug addicts.
- 6.6. The Committee feels that it is important to include a number of new elements in recognition of their particular impact on certain areas and on the lives of the people affected and on this note would stress the vital role of local and regional authorities in these spheres:
- Set up damage limitation programmes for new drugs or patterns of consumption of products such as alcohol and synthetic drugs.
 - Extend such programmes to reducing the damage caused by drugs at work and their impact on integration in the labour market, thereby helping to improve occupational health and the prevention of occupational risk.
 - Promote recovery and rehabilitation programmes providing opiate substitutes to prisoners and access thereto, distribution of syringes, other items connected with drug use and condoms.
 - Work with female prostitutes and/or drug addicts with a view to halting the spread of diseases related to drug consumption and helping to alleviate the abuse suffered by many at the hands of third parties, including partners, pimps and networks trafficking in women.
 - Plan and support programmes designed to minimise the harm suffered by the children of drug addicts and problems caused in both institutions and families.
 - Outline social and health strategies designed to increase take-up of anti-retroviral drugs to avoid the progression of the physical consequences of HIV.
 - Increase the number of general health programmes for drug addicts, including oral health programmes, regular gynaecological check-ups, regular hepatitis check-ups, etc.

- Design programmes for the prevention, follow-up and controlled treatment of hepatitis C, which is very common among drug users, in order to halt the spread, progression and future consequences of the disease, in particular the probability of chronic illness and progression to cirrhosis and carcinomas.
- Promotion of measures in line with the 'therapy not punishment' approach.
- Promotion of measures to prevent or minimise the physical, psychological and social problems encountered by drug addicts unable to give up drug use, e.g. use of opiate substitutes, easier access to substitutes, distribution of syringes and condoms.
- Promotion of regional studies and research.

Brussels, 20 November 2002.

The President

of the Committee of the Regions

Albert BORE

Opinion of the Committee of the Regions on the 'Proposal for a Council Recommendation on the Prevention of smoking and on initiatives to improve tobacco control'

(2003/C 73/03)

THE COMMITTEE OF THE REGIONS,

having regard to the proposal for a Council recommendation on the Prevention of smoking and on initiatives to improve tobacco control (COM(2002) 303 final);

having regard to the decision of the European Commission of 3 January 2002 to consult the Committee under the fourth paragraph of Article 152 of the Treaty establishing the European Community;

having regard to the decision of its Bureau of 6 February 2002 to instruct the Commission for Economic and Social Policy to prepare the Committee's work on this subject;

having regard to the Resolution of the Council and the Ministers for Health of the Member States meeting within the Council of 18 July 1989 on banning smoking in places open to the public ⁽¹⁾;

having regard to Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities ('Television without frontiers Directive') ⁽²⁾;

having regard to the recommendations on tobacco control initiatives required at Community level, adopted by the Commission's High Level Cancer Experts Committee (COM(1996) 609 final — Annex);

having regard to the Council Resolution of 26 November 1996 on the reduction of smoking in the European Community ⁽³⁾;

⁽¹⁾ OJ C 189, 26.7.1989.

⁽²⁾ OJ L 298, 17.10.1989.

⁽³⁾ OJ C 374, 11.12.1996.

having regard to the December 1996 Communication from the Commission to the Council and the European Parliament on the present and proposed Community role in combating tobacco consumption (COM(1996) 609 final);

having regard to the World Bank report entitled *Curbing the Epidemic: Governments and the Economics of Tobacco Control*, Washington DC 1999;

having regard to the Commission Report to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on progress achieved in relation to public health protection from the harmful effects of tobacco consumption (COM(1999) 407 final) on the follow-up to the above-mentioned 1996 Communication;

having regard to the Council Conclusions of 18 November 1999 on combating tobacco consumption ⁽¹⁾;

having regard to Directive 98/43/EC of the European Parliament and of the Council of 6 July 1998 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products ⁽²⁾ annulled by the European Court of Justice in case C-376/98, judgment of 5 October 2000, *Germany v Parliament and Council*, Digest of Community case-law 2000, p. I-8419;

having regard to the Proposal for a Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products, presented by the Commission pursuant to Articles 47(2), 55 and 95 of the EC Treaty on 14 May 2001 (COM(2001) 283 final) ⁽³⁾;

having regard to Directive 2001/37/EC of the European Parliament and of the Council of 5 June 2001 on the manufacture, presentation and sale of tobacco products;

having regard to the World Health Organisation Framework Convention on Tobacco Control (FCTC) under discussion, Internet address: <http://www.who.int/gb/fctc/>;

having regard to its draft opinion (CdR 226/2002 rev.) adopted on 25 September 2002 by the Commission for Economic and Social Policy (rapporteur: Mr Alvaro Ancisi, town councillor for Ravenna, I/EPP),

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

1. Views and recommendations of the Committee of the Regions

The Committee of the Regions

1.1. notes that smoking is a prime cause of human disease and death. Smoking is enormously costly for the Community and is the cause of considerable suffering for individuals and their families. Approximately one third of the EU population smokes and the health impact is grave, with 500 000 smoking-related deaths a year, involving cancer in particular. Smoking also has a proven effect on the health of non-smokers, particularly on vulnerable groups, such as children, pregnant women and people with respiratory diseases. Much has been done in the EU to combat and prevent smoking, but there is a great deal still to be done to secure widespread and solid results. For this reason, the EU must adopt new and more effective measures in this area;

1.2. recognises that the proposal for a Council recommendation responds to this need in an effective and appropriate way. It is in line with the policies followed by the EU up to now, while also taking up a number of recommendations made on the subject by other Community institutions in previous documents. The Committee also notes that the proposal follows on from and is in keeping with its own previous opinions on public health and on the manufacture, presentation and sale of tobacco products;

1.3. believes that, as the fight against smoking has worldwide implications, it is very important that the measures recommended by the Council are fully in line with the discussions on the establishment of a World Health Organisation framework convention on tobacco control (FCTC), given that the draft elements of the FCTC currently under discussion include measures aimed at a total ban on all forms of direct and indirect advertising, preventing the access of minors to tobacco vending machines, banning the sale of cigarettes individually or in packets of fewer than 20 and requiring tobacco companies to disclose their advertising expenditure;

⁽¹⁾ OJ C 86, 24.3.2000.

⁽²⁾ OJ L 213, 30.7.1998.

⁽³⁾ OJ C 270, 25.9.2001, p. 97.

1.4. notes that the proposal for a recommendation is addressed to the Member States, who are asked to take new and more incisive measures against the use of tobacco in general and smoking and the sale of cigarettes in particular. Although a recommendation is not legally binding on Member States, they are naturally expected to comply with its requirements, given that smoking and the use of tobacco products is a major public health problem in all countries. This expectation is reflected in part by the monitoring role assigned to the Commission;

1.5. takes the view that in that respect, the proposals contained in the recommendation appear for the most part to be balanced and constructive, such as those aimed at prohibiting the sale of tobacco to children and adolescents. However, the Committee believes that in certain Member States it will be more difficult in legal terms to apply the requirement for manufacturers and vendors of tobacco products to disclose their marketing expenditure or to prevent the most insidious forms of direct or indirect advertising from reaching children and adolescents (as demonstrated by the Court of Justice judgment of October 2000, which annulled the Directive of the European Parliament and of the Council of 6 July 1998 on the advertising and sponsorship of tobacco products because it did not guarantee the free movement of products or eliminate distortions to competition). While the Committee is fully behind the aims and objectives of these measures, which are clearly set out in the explanatory memorandum, it would also point out that there is a degree of friction between the demands of health protection and those of the internal market. The measures are essential however and the legal barriers must be removed;

1.6. underlines the continued relevance of its opinion of April 2000 on the new tobacco directive, which has now been adopted, in which it pointed out the need to harmonise or at least approximate Member States' laws, regulations and administrative provisions regarding the manufacture, presentation and sale of tobacco products. This is important both for achieving a high level of public health protection and for helping to remove the obstacles to the improved functioning of the internal market. In view of the legal uncertainty in some matters in this area, the Committee welcomes the recommendation as it has come just at the right time.

2. Protection from tobacco smoke in public places and the workplace

The Committee of the Regions

2.1. would stress that in the above-mentioned opinion, in addition to legislative harmonisation, it expressed the need to give consideration to other forms of action to protect public

health, pointing up the aim of protecting non-smokers in public places and the workplace. The Committee is pleased to note that the Commission document takes up this proposal in point 4 of the recommendations to the Member States;

2.2. states that the achievement of smoke-free public places and workplaces is a strategic move in the fight against smoking. The Committee would stress that to pursue this objective effectively, specific policies must be adopted that require the development of a social consensus, legal certainty, monitoring mechanisms and penalties, and efficient bureaucratic procedures;

2.3. calls for consideration to be given to the provision of treatment and support for people giving up smoking, such as anti-smoking counselling from GPs, courses on giving up smoking in approved anti-smoking centres, counselling from nurses in hospitals and from local chemists;

recommends that health systems provide support for people giving up smoking, including nicotine substitution treatment, specifically targeted at vulnerable groups such as:

- teenagers, in particular smokers, by offering anti-smoking advice each time they come into contact with the health system;
- pregnant women, by ensuring that health education programmes designed for this group include information on the risks of smoking and guidelines for giving up;
- people suffering from smoking-related diseases, by ensuring that both primary and specialised healthcare centres also provide treatment for people giving up smoking;

also suggests promoting the use of new communication technologies to give as many people as possible access to techniques for giving up smoking;

2.4. would stress in particular that the workplace is the prime setting for action to achieve healthy environments, using social acceptance as the key to the success of additional and complementary measures in training, offering support in giving up, and environmental monitoring. The Committee would therefore suggest that particular attention be given to workplaces whose institutional image is particularly important, for instance hospitals and health services (where health service employees must be the first to set a professional example by not smoking), schools and government offices, inasmuch as they are supposed to set an example for the whole community.

3. Total ban on smoking in schools

The Committee of the Regions

3.1. would stress that in schools especially it is essential to be consistent in the messages given and the behaviour shown. It believes therefore that the no-smoking rule should be extended throughout school premises, including toilets and playgrounds, in order to prevent young people from smoking publicly during breaks, often in the company of teachers (who ought to refrain from smoking anywhere in school buildings, even staff rooms), giving younger pupils the idea that rather than being a bad habit, smoking is socially acceptable and to be imitated. The Committee believes that an anti-smoking policy is especially useful in nursery and primary schools, as it is easier to count on effective parental involvement at this developmental stage. The aim must be to prevent children from becoming regular smokers in their adolescence as it is at this stage in their development that they are most likely to adopt anti-social behaviour patterns, and smoking is a preferred form of rebellion; later it is difficult to give up.

4. Local intervention in the field of information and education

The Committee of the Regions

4.1. would point out that, up to now, the content of the recommendations made has tended to focus on bans and rules, although these cannot be dissociated from training measures able to achieve the basic social consensus without which no imperative law can become customary. It is pleased to see however that in point 5 of the recommendations to the Member States there is an invitation to bolster health education and programmes to discourage the use of tobacco products, namely, information and education measures to promote health and healthy lifestyles, which can counterbalance the social pressure that boosts tobacco consumption. In advance of its comments on the importance of local-level action, the Committee would point out that in this area of prevention, the bulk of the effort should be aimed at the younger generations, and that, in this respect, there is a vast spectrum of potentially useful local initiatives, such as:

- a) carrying out effective teaching programmes in schools with a view to dissuading children from taking up smoking (developing awareness and the ability to overcome the social pressure mounted by family models, peer groups, advertising and social mores);

- b) giving young people a role in spreading the word and promoting health in the community, in accordance with an open and informative model of local society;
- c) raising family awareness, stressing the negative effect that family habits can have in encouraging young people to take up smoking;
- d) using effective techniques to communicate the risks to formal and informal groups of young people (without moralising or scare-mongering, and using positive role models to bolster the image of the non-smoker);
- e) involving the local media in information campaigns targeted according to gender and age group;
- f) taking care to avoid any form of tobacco-industry sponsorship at public (musical or sporting) events that are likely to attract young people;
- g) take appropriate information and training initiatives (involving sectoral associations) to raise tobacco vendors' awareness of the correct way to deal with minors.

5. The role of local and regional authorities

The Committee of the Regions

5.1. having stressed the importance of local measures in the field of training and education for the younger generations, would underline the central role of local and regional authorities in the fight against smoking. In reality, measures designed and adopted at central level have little chance of being accepted socially or succeeding if that role is undervalued. More specifically, the Committee would point out that local and regional authorities can be effective in:

- a) the supervision, control and monitoring of the regional application of legislative guidelines adopted by the State;
- b) the drafting of legislative proposals addressed to their national governments and more generally to the Member States, expressing demands and ideas for the future that have been generated from the bottom up;
- c) the drawing-up of regional and local guidelines on the prevention, control and treatment of tobacco addiction, following broad consultation with professional and social representatives;
- d) the regional-level implementation of Member States' strategies for preventing and combating tobacco addiction;

5.2. notes that local and regional authorities clearly have an important role to play in the establishment and development of a regional network of services and resources directed towards combating smoking, involving all the representatives of the community's economic, political and cultural fabric, including the private and voluntary sectors. The Committee would also stress that the role of local and regional authorities is fundamental in managing the system as a whole, to ensure the measures are:

- a) coordinated to form an integrated and complementary set of measures;
- b) directed at clearly defined target groups, with the creation of health promotion-friendly environments;
- c) conducted gradually so that through the process of securing a social consensus a non-smoking culture is formed and citizens are empowered to play an active role in health promotion;
- d) an integral and coherent part of a multi-sectoral health promotion strategy across the board, underpinning political and government action;

5.3. points out that the importance of the role of local and regional authorities, both in making the Community guidelines operational and in assessing their impact at regional level, demands the development of stable cooperation mechanisms and the forging of new alliances with governmental and non-governmental organisations in order to compare experiences and share ideas for the future;

5.4. highlights the need to spread the practice of setting up national tobacco advisory councils in the Member States, to gather contributions from scientific institutions, government agencies and NGOs;

5.5. refers, in this context, to the example of cooperation between Member State NGOs given by the European Network

for Smoking Prevention (ENSP), whose role should be further developed in the area of technical and scientific consultation.

6. A European centre for the study of smoking prevention and control

The Committee of the Regions

6.1. believes that it would be extremely useful for the EU to have a centre for the study of the prevention and control of smoking, tasked with:

- conducting a Europe-wide epidemiological study of the phenomenon (from addiction and related illnesses to social and health costs);
- collecting and documenting experiences of good practice in the anti-smoking field, carried out by Member States;
- preparing and disseminating tried and tested methodologies, programmes and practical tools in line with the Community guidelines;
- the provision of ongoing training for operators;
- monitoring and assessing smoking prevention and control measures conducted by the Member States;

6.2. takes the view that this study centre should have close operational links with other European agencies and working groups dealing with drug addiction in general and alcoholism in particular. Above all, a stronger joint initiative is needed at Community level in the area of 'legal substances' as a whole (tobacco and alcohol), as opposed to illegal substances, in the light of the many similarities in their social and cultural features and in the types of prevention scheme that can be used.

Brussels, 20 November 2002.

*The President
of the Committee of the Regions*
Albert BORE

Opinion of the Committee of the Regions on the ‘Green Paper on a Community return policy on illegal residents’

(2003/C 73/04)

THE COMMITTEE OF THE REGIONS,

having regard to the European Commission Green Paper on a Community return policy on illegal residents (COM(2002) 175 final);

having regard to the decisions of the Tampere, Laeken and Seville European Councils (October 1999, December 2001 and June 2002 respectively);

having regard to the European Commission's decision of 11 April 2002, under the first paragraph of Article 265 of the Treaty establishing the European Community, to consult the Committee on this matter;

having regard to its Bureau's decision of 6 February 2002 to instruct the Commission for External Relations to draw up an opinion on the matter;

having regard to its opinion⁽¹⁾ of 16 May 2002 on the Communication from the Commission to the Council and the European Parliament on a common policy on illegal immigration⁽²⁾, the Proposal for a Council Decision adopting an action programme for administrative cooperation in the fields of external borders, visas, asylum and immigration (ARGO)⁽³⁾, the Communication from the Commission to the Council and the European Parliament on an open method of coordination for the Community immigration policy⁽⁴⁾, the Proposal for a Council Directive on minimum standards for the qualification and status of third-country nationals and stateless persons as refugees or as persons who otherwise need international protection⁽⁵⁾, the Commission Working Document — The relationship between safeguarding internal security and complying with international protection obligations and instruments⁽⁶⁾, and the Communication from the Commission to the Council and the European Parliament on the common asylum policy, introducing an open coordination method⁽⁷⁾;

having regard to the draft opinion (CdR 242/2002 rev.) adopted by the Commission for External Relations on 26 September 2002 (rapporteur: Mr Van den Brande (B-EPP), member of the Flemish Parliament);

whereas the Committee of the Regions emphasises the importance and necessity of common standards and measures on the return of illegal residents in the European Union within the context of a coherent Community asylum and immigration policy;

whereas a refugee and migration policy must be conducted against the backdrop of a macroeconomic policy that is geared towards sustainable growth and a more balanced distribution of wealth worldwide;

whereas local and regional authorities are key players in receiving and providing services for asylum seekers, refugees and immigrants,

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

⁽¹⁾ CdR 93/2002 fin — OJ C 278, 14.11.2002, p. 44.

⁽²⁾ COM(2001) 672 final.

⁽³⁾ COM(2001) 567 final — 2001/0230 (CNS).

⁽⁴⁾ COM(2001) 387 final.

⁽⁵⁾ COM(2001) 510 final — 2001/0207 (CNS).

⁽⁶⁾ COM(2001) 743 final.

⁽⁷⁾ COM(2001) 710 final.

1. The Committee of the Regions' views

The Committee of the Regions

1.1. is pleased that the Commission Green Paper is seeking to open a discussion on such a complex and sensitive subject as the return of illegal residents in the Union;

1.2. agrees that the common return policy is an integral part of the Community asylum and immigration policy and that a return policy is necessary to secure a legal and humanitarian admission policy. Laying down common standards for expulsion, detention and removal is a precondition for the adoption of a binding system among the Member States for the mutual recognition of return decisions;

1.3. regrets, however, the failure so far to develop an approach — or take measures — in the field of legal migration, despite the fact that this could help curb and discourage illegal immigration;

1.4. feels that, as part of any return policy, particular importance must be attached to respect for human rights and human dignity and to fundamental freedoms. The 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, the 2000 Charter of Fundamental Rights of the European Union and the inclusive terms of the 1951 Geneva Convention should be applicable in this context. In order to give more concrete form to the return policy, account should be taken of the recommendation on this issue of the Council of Europe Parliamentary Assembly ⁽¹⁾;

1.5. agrees with the Commission that absolute priority must be given to voluntary return. Paramount importance must be attached to measures to further sustainable return, with particular regard being given to reintegration into the country of origin. A return policy must also focus on mechanisms that encourage those concerned to return to their country of origin;

1.6. attaches tremendous importance to voluntary return programmes, but is duty bound to note that potential beneficiaries are not sufficiently aware of them. These programmes must offer tangible incentives both to the parties concerned and to the countries of origin (training, economic integration, involvement in development programmes etc.). In order to ensure sustainability of return, follow-up is also needed in the country of origin;

1.7. emphasises that, in cases of forced return — which should only be carried out in cases where people refuse to return voluntarily — particular attention must be paid to protecting vulnerable people such as minors, children and persons separated from their families, pregnant women and the seriously ill. Forced return must take place under transparent conditions so that it can be monitored by the appropriate bodies;

1.8. thinks that an effective return policy is concomitant with a fast, efficient and high-quality asylum procedure;

1.9. recognises that a return policy can only succeed with the collaboration of the countries of origin, and thus endorses the idea of incorporating readmission clauses into association and cooperation agreements. The European Union will have to provide assistance to the countries of origin through various support schemes in order to facilitate the integration of returnees;

1.10. notes that local authorities and regions are involved at a practical level in receiving and providing services for asylum seekers and refugees and make a special effort with limited resources to be of practical assistance. It is therefore not only desirable but also necessary that local and regional authorities should be involved as full partners in the further framing, implementation and monitoring of the common return policy;

1.11. notes that many European municipalities are already liaising with local authorities in the countries of origin and have thus acquired first-hand knowledge that may be of use in reintegrating returnees;

1.12. would stress that information exchange is the first step towards any fully-fledged common return policy. Local and regional authorities, including those from the candidate countries for accession, must be involved in any such exchange.

2. CoR recommendations

The Committee of the Regions

2.1. calls for urgent action to develop a European approach and work out common measures in the field of legal immigration, since clarity on this front will, in the short run, discourage illegal immigration;

⁽¹⁾ REC 1547 (2002) — 2002 Session — First Part — 'Expulsion procedures in conformity with human rights and enforced with respect for safety and dignity'.

2.2. proposes that, with a view to approaching the migration process in its entirety, partnership agreements be concluded with the countries of origin and transit, covering political, social, economic and cultural matters and also the relationship between migration and development;

2.3. would like voluntary return to be expressly recognised as a basic principle of the common return policy, with forced return regarded as an exceptional measure;

2.4. urges that the return of illegal EU residents should show absolute respect for human rights and human dignity. Cases of forced return must be subject to humanitarian monitoring by the appropriate bodies;

2.5. would advocate that, with regard to the removal of illegal EU residents, account be taken of the recommendation of the Council of Europe Parliamentary Assembly (REC 1547(2002));

2.6. recalls the ban on collective expulsions;

2.7. deplores the institutionalised practice of detaining illegal EU residents and considers that the detention period must be limited to the time needed to arrange for departure. It must also be stressed that children and minors have no place in detention centres;

2.8. trusts that local and regional authorities will be involved as full partners in framing, implementing, monitoring and assessing the common return policy;

2.9. calls on the Commission to make use, in connection with return and reintegration programmes, of the first-hand knowledge that European municipalities have acquired through cooperation activities in countries of origin and to diffuse this knowledge and experience as a guide to good practice;

2.10. asks that more studies be carried out and more data compiled on the outcome of ongoing voluntary return programmes, and that these be used to draw lessons for future policy. Clearly, a practical approach and content is crucial to these programmes' success. Consideration must also be given to the extent to which local and regional authorities can play a role in this process;

2.11. proposes that improvements be made in mutual information exchange between Member States with the participation of local and regional authorities, including those from the candidate countries;

2.12. urges that the European Union provide support for Member States' return programmes where these relate to voluntary return and focus on reintegrating returnees. The European Union must also ensure better coordination and approximation of these programmes;

2.13. calls for the provision of reception facilities for returnees in the country of origin and proper support to ease and secure reintegration and guarantee respect for human rights.

Brussels, 20 November 2002.

*The President
of the Committee of the Regions*
Albert BORE

Opinion of the Committee of the Regions on the 'Amended Proposal for a Council Directive on the Right to Family Reunification'

(2003/C 73/05)

THE COMMITTEE OF THE REGIONS,

having regard to the Amended Proposal for a Council Directive on the right to family reunification [COM(2002) 225 final — 1999/0258 (CNS)];

having regard to the decision of the Council of 23 May 2002 to consult the Committee of the Regions on this matter, under the first paragraph of Article 265 of the Treaty establishing the European Community;

having regard to the decision of its Bureau on 12 March 2002 to instruct Commission for External Relations to draw up the relevant opinion;

having regard to the meeting of the European Council at its special meeting at Tampere on 15 and 16 October 1999, which acknowledged the need for harmonisation of national legislation on the conditions for the admission and residence of third country nationals, to be based on a common evaluation both of economic and demographic trends within the Union and the situation in the countries of origin;

having regard to the European Council at its special meeting at Tampere on 15 and 16 October 1999 stating that the European Union should ensure fair treatment of third country nationals lawfully residing on the territory of Member States, and that a more vigorous integration policy should aim at granting them rights and obligations comparable with those of citizens of the European Union;

having regard to the Council of Europe report in July 2000 on Diversity and Cohesion: new challenges for the integration of immigrants and minorities;

having regard to the decision of the Laeken European Council on 14 and 15 December 2001 to confirm that a genuine policy on immigration implies the establishment of common standards on procedures for family reunification;

having regard to the opinion of the Committee of the Regions on Immigration Policy and Asylum Policy (CdR 93/2002 fin)⁽¹⁾ adopted on 16 May 2002;

having regard to the reference by the European Council at its meeting in Seville on 21 and 22 June 2002 to the need to develop a European Union common policy on immigration and to the integration of immigrants lawfully present in the Union: and the decision by the Council to adopt provisions on the status of long-term permanent residents by June 2003;

having regard to the opinion of the European Economic and Social Committee on the Amended Proposal for a Council Directive on the right to family reunification (CES 857/2002);

having regard to the draft opinion (CdR 243/2002 rev.) adopted on 26 September 2002 by the Commission for External Relations [Rapporteur: Ms Ruth Coleman, Executive Member of North Wiltshire District Council (UK/ELDR)];

whereas fair, common rules on family reunification will contribute to the successful integration of third country nationals and their families in the receiving society and into the labour market;

whereas in many of the Member States, there is a serious shortage of skilled workers, particularly in the health, IT and education sectors, which has a damaging effect on the competitiveness of the European Union: a common policy which meets the need for integration and family reunification of migrant workers will help to attract appropriately qualified third country nationals to work in the European Union;

⁽¹⁾ OJ C 278, 14.11.2002, p. 44.

whereas differential cultural ties, historical and geographical factors have led to a diversity of policies and procedures in different Member States for dealing with applications for family members to join third country nationals for the purpose of family reunification;

whereas in order to achieve appropriate certainty both for applicants and for Member States, there needs to be a common Union-wide policy on family reunification that protects the family and preserves family life;

whereas the imminence of the enlargement of the European Union gives added urgency to the need to achieve a common Union-wide policy on family reunification;

whereas local and regional authorities have an important role in integrating third country nationals and their families into civil society and into the labour market within the European Union,

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

1. The views of the Committee of the Regions

The Committee of the Regions

1.1. welcomes the proposal that a set of rules governing the procedure for examination of applications for family reunification should be effective and manageable, taking into account the normal workload of the Member States administrations, as well as transparent and fair, in order to offer appropriate legal certainty to those concerned;

1.2. is concerned that the revised proposal indicates a move away from a rights based approach to family reunification to a procedural approach and deplores the fact that the original objective to 'set the right to family reunification', as formulated in the initial proposal of the Commission in 1999, has been diluted to set a minimum common base of 'conditions in which the right to family reunification is exercised'. Special treatment for exceptional cases should be taken into account;

1.3. welcomes the proposals in Article 3(6) that this Directive may not have the effect of introducing less favourable conditions than those which already exist in each Member State;

1.4. is concerned that, in Article 4, admission of family members is only mandatory in respect of traditional or nuclear families (applicant's spouse and minor children including adopted children). Different rules would apply as between the various Member States on how other family members would be treated, leading to confusion and possible litigation;

1.5. is concerned, in particular, about the likely different treatment of unmarried partners, illegitimate children and adult dependants of the applicant in different Member States: and that this different treatment may lead to appeals under the Convention on Human Rights, regarding respect for family life;

1.6. notes that, in Articles 4(3) and 5(2) of the proposed Directive, Member States may authorise the entry and residence of unmarried partners in a stable long-term relationship or a registered partnership with the applicant. It further notes that in many countries outside the European Union there is no provision for registered partnerships, either for a man and woman or for same-sex partners. It is concerned that the Directive is silent as to the rights of same-sex partners in a stable long-term relationship, or of the rights of the children of such partnerships;

1.7. welcomes the greater flexibility whereby Member States will have discretion to accept applications submitted either when the family is outside their territory or already in their territory;

1.8. welcomes the harmonisation of the time limits for determination of an application laid down in Article 5(4), but is concerned that the consequences of no decision being taken by the end of the time limit shall be determined by National Legislation and that in some cases this could lead to rejection by means of administrative delay. The Committee further notes that this is likely to lead to different outcomes on similar cases in different Member States and the possibility of litigation in the European Court of Justice;

1.9. is concerned that, apart from the emergency procedures in Article 15 which Member States may choose to adopt, the proposed directive is silent on the status of family members following divorce, separation from or death of the applicant;

1.10. is concerned that the proposed Directive is silent on the question of the cost of visas for family members of third country nationals;

1.11. notes that third country nationals with the right of long-term residence in one Member State may successfully apply to bring their families to join them. It is concerned that if they then exercise their right to seek employment in another Member State⁽¹⁾ their families may not be allowed to follow them due to differing rules on family reunification as between Member States. This treatment may be contrary to the obligation to protect the family and respect family life that the proposed Directive seeks to foster;

1.12. is concerned that the UK, Denmark and Ireland have exercised their rights under the respective Protocols for these Member States to opt out of participation in the proposed Directive. It is concerned that:

- (a) these Member States, with their different history and experiences, will have no input into the common rules on the right to family reunification, and
- (b) if they choose to adhere to the Directive at a later date, the common rules eventually adopted by the EU may well not meet their needs;

1.13. notes that, under the Dublin Convention, applicants face a limited choice when seeking admission to the European Union, either to a Member State with which they have a previous connection, such as a family member who is already resident, or to the country in which they first arrive. It believes therefore that it is vitally important that a common system on family reunification applies across the European Union;

1.14. is greatly concerned that the lack of a common system of rules for family reunification will lead to many potential problems when enlargement of the European Union takes place. If there is no common set of rules, there will be an even greater diversity of systems for family reunification which vary from Member State to Member State. The Committee therefore welcomes the proposal in Article 20 of the Directive for Member States to bring the necessary laws, regulations and procedures into force no later than 31 December 2003;

1.15. considers that, in respect to assisting the reunification of families, many local and regional authorities (together with other partners) are prompted to provide a certain number of services, such as:

- (a) specialist services which may be required outside the norm of provision to many EU Member State nationals e.g. provision of information in a relevant language, particular medical or psychological care,

- (b) services connected with the integration of new residents into civil society and the workplace,

- (c) routine services e.g. housing or education.

However, the cost of providing these services will fall disproportionately on certain local and regional authorities;

1.16. underlines the belief that family reunification contributes to socio-cultural stability and facilitates the integration of non-Member State nationals in Member States. However, social integration cannot exist without equitable access to education, employment and vocational training;

1.17. believes that if different rules apply in different Member States, this will lead to confusion as to the potential outcome of any particular application and to potential litigation based on human rights or on the rights of children. It further believes that such confusion will lead to delay in the determination of applications and appeals and that local and regional authorities may be required to provide support services to applicants over a lengthy period.

2. The Committee of the Regions' recommendations

The Committee:

2.1. supports the introduction of a common system of rules regarding the reunification of families of third country nationals lawfully resident within the territory of the Member States, which is consistent, transparent and fair in order to offer appropriate certainty of outcome both to applicants and to Member States;

2.2. recommends that the mandatory definition of the family should be extended to include unmarried partners in an established partnership, illegitimate children and adult dependants of the applicant;

2.3. recommends that the rights of unmarried partners in established relationships or registered partnerships to family reunification should be extended to include the rights of same-sex partners in such a relationship and to the children of such relationships;

2.4. recommends that the right of family members to remain within the EU following a divorce, separation from or death of the applicant should be included in the Directive;

⁽¹⁾ COM(2001) 127 final.

2.5. recommends aligning the right of access to education, employment and vocational training on that of European citizens;

2.6. recommends that failure by a Member State to make a decision on an application within the time limits laid down in the Directive should mean that the application is accepted;

2.7. urges Member States to reconsider the possibility of issuing visas free of charge to family members of third country nationals seeking family reunification;

2.8. recommends that a family that has been admitted to a Member State to join a third country national for the purpose of family reunification should have the right to accompany the third country national to another Member State in which he/she obtains employment, even if, at that time, the family members have not achieved autonomous residence permits;

2.9. recommends to the Commission that it consider a more comprehensive set of common rules on family reunification before enlargement of the European Union takes place, which will also be adopted by the new Member States;

2.10. recommends that Member States should provide appropriate and sufficient resources for local and regional authorities (and partner organisations) to provide the necessary support services to assist reunification of families of third country nationals lawfully resident in the territories of the Member States.

2.11. urges the Commission to consider the social aspects of family reunification alongside the humanitarian aspects, in particular access to the labour market which would reduce the possibility of dependency on local and regional governments.

Brussels, 20 November 2002.

*The President
of the Committee of the Regions*
Albert BORE

Opinion of the Committee of the Regions on the 'Communication from the Commission on the Action Plans for administrative and judicial capacity, and the monitoring of commitments made by the negotiating countries in the accession negotiations'

(2003/C 73/06)

THE COMMITTEE OF THE REGIONS,

having regard to the Commission's Communication on the Action Plans for administrative and judicial capacity and the monitoring of commitments made by the negotiating countries in the accession negotiations (COM(2002) 256 final);

having regard to the Decision of the European Commission of 6 June 2002 to consult it in this matter, under the first paragraph of Article 265 of the Treaty establishing the European Community;

having regard to the Decision of its Bureau of the 14 May 2002 to instruct Commission for External Relations to draw up an opinion on this subject;

having regard to its opinion on 'Supporting the development of institutional structures at local and regional level in the applicant countries' (CdR 102/2001 fin) ⁽¹⁾, [rapporteur: Roger Kaliff, (S-PES)];

having regard to its final report from the work of the COR-EU Applicant States Liaison Group and recommendations for the future (18 October 2001);

having regard to its experts' report on 'Preparing for EU enlargement — Devolution in the first wave negotiating countries' (CdR 391/1999 fin);

having regard to its opinion on 'Institutional aspects of enlargement — Local and regional government at the heart of Europe' (CdR 52/1999 fin) ⁽²⁾;

having regard to its opinion on 'Implementation of EU law by the regions and local authorities', (CdR 51/1999 fin) ⁽³⁾;

having regard to its resolution 'The ongoing EU enlargement process' (CdR 424/99 fin — 17 November 1999) ⁽⁴⁾;

having regard to the Commission's White Paper on Governance;

having regard to the report of the European Parliament on the state of enlargement negotiations (A5-0190/2002);

having regard to the debate on enlargement at the 45th CoR Plenary Session, 3 and 4 July 2002;

having regard to the draft opinion (CdR 244/2002 rev.) adopted on 26 September 2002 by the Commission for External Relations [rapporteur: Cllr Keith Brown, Leader of Clackmannanshire Council (UK/EA)],

adopted the following Opinion by a unanimous vote at its 47th plenary session, held on 20 and 21 November 2002 (meeting of 20 November).

The views of the Committee of the Regions

The Committee of the Regions

1. Notes with satisfaction the Conclusions of the Seville Council (21 and 22 June 2002) reaffirming the determination of the Union to conclude negotiations with the first wave of

ten negotiating countries by the end of 2002, with a view to signing the Treaty of Accession in Spring 2003.

2. Commends the efforts made to date by the negotiating countries in addressing the weaknesses in their administrative capacity.

3. Welcomes the Commission's development of Action Plans for reinforcing the negotiating countries' administrative and judicial capacity and the additional assistance of up to EUR 250 million in 2002 for this purpose through the Phare programme.

⁽¹⁾ OJ C 107, 3.5.2002, p. 32.

⁽²⁾ OJ C 374, 23.12.1999, p. 15.

⁽³⁾ OJ C 374, 23.12.1999, p. 25.

⁽⁴⁾ OJ C 57, 29.2.2000, p. 1.

4. Welcomes the Commission's recognition that this capacity improving is a long-term process which will need to continue after accession, and the proposed additional EUR 380 million for a transition facility to support these efforts.

The challenge facing regional and local authorities in the negotiating countries

5. Notes that the simultaneous restructuring of both their administrative structures and the implementation of the acquis poses a complex challenge for local and regional authorities. The solution demands both open relations between the national and the local and regional level, and the development of capacity, where the flow of information and opportunities for exchange of experiences are essential.

6. Recognises that the roles and responsibilities of local and regional government are not the same within each of the negotiating countries, as with Member States. The Committee however recalls the guiding principles for enlargement with respect to local and regional authorities as laid down in its Resolution on 'The Ongoing EU Enlargement process', supported by the local and regional representatives of the negotiating countries:

- the enlargement negotiations should be carried forward according to the principle of proximity to citizens, the subsidiarity principle and the principle of proportionality;
- in matters affecting their competencies or vital interests, that local and regional authorities are: timely and sufficiently consulted; immediately informed about the consequences of the negotiated solutions; and consulted on a mandatory basis in areas which will have financial and administrative consequences for them, in line with the provisions of their respective constitutions.

Addressing the capacity needs of local and regional authorities in the negotiating countries

7. Believes that it remains the case that too little emphasis is put on the importance of the role and responsibilities of local and regional authorities in the success of the enlargement process. There is often a poor understanding of the key role that the local and regional level has to play, which is as valuable as the national level. Local and regional perspectives must be given a far higher profile in the ongoing negotiations and in the support given in preparing for EU membership. The Commission, Member States and national governments of the negotiating countries must increase their efforts in this respect.

8. Underlines the importance of local and regional authorities in implementing a significant proportion of EU legislation as well as for dealing with structural funds programmes. Building the capacity of regional and local stakeholders who are in a situation of political and economic transition is a long-term process that requires regular assistance in information, consultations, and tailor made training programmes.

For the attention of the Commission, the Committee

9. Fears that the Commission is focusing its efforts on working with national governments, to the detriment of its responsibility towards the local and regional level because it is administratively more burdensome. The Committee calls on all directorates of the Commission to step up their efforts to engage with the regional and local levels of governance of the negotiating countries in accordance with the principles of the White Paper on European Governance.

10. Welcomes the progress made with the establishment of the TAIEX regional training programme (Phare funded) in 2002 and the start of the third wave of training for officers from Latvia, Slovenia, Slovakia, Czech Republic and Estonia (the programmes for Poland, Lithuania and Hungary are already underway).

11. Calls on the Commission to undertake a survey of the specific training needs of local and regional authorities in the negotiating countries in consultation with the relevant national associations of both Member States and the negotiating countries and to increase the funding available to support the expansion of the TAIEX programme to address the findings.

12. Joins the Commission in encouraging the negotiating countries to make full use of the opportunities afforded through programmes such as Phare (TAIEX) and other inter-regional cooperation programmes; in particular, for national governments to increase their efforts in promoting these opportunities to ensure a higher level of take up at a local and regional level.

13. Expresses concern at the low take-up to date of training in transport policy, public procurement and social policy (occupational Health and Safety and labour market law) at a regional and local level. The Committee calls on the Commission to raise awareness of the significance of these fields.

14. Calls on the Commission to support participants at the end of their training period to promote their expertise in order to develop domestic centres of expertise for training, encouraging local responsibility for improving administrative capacity.

15. Notes that although many regions have established independent representation in Brussels to support the efforts of the cities and regions in the integration process, many are financially not able to do so. The Committee calls on the Commission to support the regions and the national associations of local authorities in their initial efforts to establish representation in Brussels.

For the attention of local and regional authorities in Member States and the accession countries

16. Reiterates the call made in its Resolution on 'The Ongoing Enlargement Process' to encourage local and regional authorities in all Member States to participate in the pre-accession process:

- to incorporate the enlargement dimension into the their bilateral cooperation arrangements, e.g. twinning or cooperation agreements;
- as far as their resources and remit allow, to exchange officials or to host trainees;

17. Stresses the mutual benefit that accrues to local authorities in the Member States from such exchange programmes. For instance, participants in TAIEX will have had expert technical training and can be better informed than their counterparts in the Member States, although they lack practical experience. It also provokes host authorities to evaluate their own procedures. The placements are a two way learning process.

18. Urges local and regional authorities to take the initiative unilaterally now in areas of mutual interest, to realise opportunities, rather than missing out by waiting for the intervention of Commission or Member State led programmes.

The relation between the national and the local and regional levels

19. Calls on the national authorities of the negotiating countries to give full recognition and support to the role of local and regional government in ensuring that membership of the EU is successful.

20. Effective implementation and enforcement of the *acquis* requires good functioning relations between the local/regional and national level and flow of information to the local level in all accession countries. Formalised consultation procedures are key to avoiding future problems and to ensure the principle of subsidiarity.

21. Calls on negotiating countries to continue to pursue the process of decentralisation and stresses the importance of democratic legitimacy in line with the European charters of local and regional self-government. In addition, the CoR calls on the negotiating countries to ensure that the division of responsibilities in respect to the implementation of the *acquis* is clearly established. In the context of the White Paper on Governance, the Commission attaches increasing importance to tri-lateral contacts between spheres of government working together at a local, national and European level.

22. Notes the fear expressed by local and regional spheres of government in the negotiating countries that they will be usurped to an extent in the initial phases of membership, in particular in relation to the implementation of structural funds programmes due to lack of local capacity. The Committee believes that this should only happen where the need for it is evidence based and unavoidable with specific time scales given for the devolution of responsibilities to the local and regional spheres of government.

23. Recalls its concern at the financial problems facing local and regional self-government, with particular regards to the additional responsibilities with which they are now faced. The Committee highlights the importance of tax raising powers as a fundamental in establishing effective and autonomous local and regional self-government.

Capacity building in relation to adoption, implementation, and enforcement of the *acquis*

24. Agrees with the action plans in strengthening the following administrative capacities:

- Reform of judicial systems
- Respect for human rights and the protection of minorities
- Developing effective anti-corruption capacity

25. Notes with concern that reference to capacity building within local and regional authorities is only specifically mentioned within the context of environment policy and the management of Community funds. Regional and local authorities will be responsible for implementing the *acquis* in many fields including public procurement, consumer protection, health and safety, promoting regional development and employment and social policy.

26. Suggests that training programmes should be widened to include areas such as State Aid rules (competition and regional development policies); citizens rights, such as the right of all EU citizens to vote and to stand as a candidate in municipal elections; VAT directive and consumer tax system directive with regards municipal and regional finances.

27. Notes that there have already been delays in implementing new programmes such as Sapard (agriculture and rural development) and Ispa (infrastructure and environment) due to their complex nature. Problems in implementing programmes and delays in committing funding in existing Member States has already lead to the scrutiny of the complex rules of the Structural Funds by DG Regio. Lack of resources and training at local and regional levels is likely to aggravate such problems in the negotiating countries.

28. Highlights that to ensure efficient and effective absorption of the Funds, training at a local and regional level needs to focus on project preparation, application and selection, audit requirements, and management of transnational projects in addition to overall programming, management and control. The Committee believes that technical assistance funds should be made available to local and regional authorities for this purpose from the beginning of the programming period. Exchange of experiences on local partnership building is important as well as it is recognised as the key to the success of regional development strategies.

29. Calls on the Commission to provide more opportunities and financial assistance for small-scale, local and regional cooperation programmes between authorities in the applicant countries and the Member States through programmes such as Phare and Interreg III. There is considerable expertise in the regional administration of structural funds in the Member States and, post accession, this expertise is likely to be available at a discount in these countries, and at a premium in the accession states. A co-ordinated programme therefore suggests itself.

Public awareness campaigns

30. Notes the waning support for EU membership amongst the public in many of the negotiating countries, which reflects anxiety about the effects of enlargement, and gives added importance to the Commission's Enlargement Communication Strategy. The local and regional authorities, as the sphere of governance closest to the citizen, have direct contact with the citizens and are therefore in the best position to explain the policy of enlargement and its impact in local terms. The Committee calls on the Commission to support better strategic co-ordination of efforts at a local and regional level.

31. Although the principal tool of pre-accession assistance for Institution Building is the Phare funded twinning programme, twinning at a municipal level also has a role to play in this respect (DG Education & Culture). These exchanges bring Europe closer to the ordinary citizen and promote greater mutual understanding and respect of different cultures and traditions in the European Union. The Committee therefore expresses concern about the European Commission's recent proposal to cut the twinning budget by almost 50 % and would like to see it reinstated.

The Work of the Committee of the Regions

32. The Committee should step up its efforts in this area in the short time remaining to accession. Recommends that the RELEX Commission draws up an action plan to take forward the recommendations of this and preceding Opinions on the Committee's enlargement strategy.

33. Notes the constructive start in addressing the issue of implementation of the *acquis* made by the Joint Consultative Committees (JCC) established with Poland and the Czech Republic, (Cyprus JCC is in hand) building on the work of the Liaison Group which was well received in the negotiating countries. The Committee should timetable regular meetings, and provide more support to ensure the effective working of the JCCs.

34. Similar to the European Parliament, the CoR should welcome the new member states on an observer basis as soon as the accession treaties are signed.

35. Reiterates the recommendation of the Liaison Group that there should also be a specific budget for trainees from local/regional administrations in negotiating countries which would allow for a tailor-made programme of placements in the CoR (Report October 2001).

36. Believes that there should be more cross-working between applicant countries, and that the Committee should support this respect through establishing joint working initiatives on specific policy areas such as regional policy, environment, transport, social and health policy.

37. The Committee should lead and work closely with the national associations of local/regional authorities as well as the European associations to support their work with the

negotiating countries. One example is the LOGON project lead by the CEMR enlargement working group which is building a network for cooperation between local authorities associations within the EU and the Central and Eastern European Countries to exchange know-how.

38. The Committee underlines its demand to be recognised as an EU Institution in order to enable it to carry out, with the maximum efficiency, its roles of serving as a forum for the needs of local and regional authorities in the applicant countries and representing and defending these needs.

39. The Committee should call on the European Commission to fund the establishment of an office in Brussels for the regional and local government associations of the applicant countries.

Brussels, 20 November 2002.

*The President
of the Committee of the Regions*
Albert BORE

Opinion of the Committee of the Regions on the ‘Communication from the Commission to the Council and the European Parliament: Mid-Term Review of the Common Agricultural Policy’

(2003/C 73/07)

THE COMMITTEE OF THE REGIONS,

having regard to the Communication from the Commission to the Council and the European Parliament: Mid-Term Review of the Common Agricultural Policy (COM(2002) 394 final);

having regard to the decision of the European Commission of 10 July 2002 to consult it on this matter, under the first paragraph of Article 265 of the Treaty establishing the European Community;

having regard to the decision of its Bureau on 14 May 2002 to instruct the Commission for Sustainable Development to draw up an opinion on this subject;

having regard to its opinion on The proposals for Council Regulations (EC) concerning the reform of the common agricultural policy (CdR 273/98 fin) ⁽¹⁾;

having regard to the draft opinion (CdR 188/2002 rev.) adopted on 3 October 2002 by the Commission for Sustainable Development (rapporteur: Mr Robert Savy, President of the Limousin Regional Council, F/PES),

adopted the following opinion at its 47th plenary session, held on 20 and 21 November 2002 (meeting of 20 November) by a majority vote.

The Committee of the Regions’ points of view and recommendations

1.1. The Committee of the Regions endorses the initiative taken by the European Commission to make proposals, in its mid-term review of the CAP, which can contribute to the broad debate on the future of the Common Agricultural Policy underway among the Member States, the farming sector and the general public.

1.2. The need for a discussion on the future of this sectoral policy had already become abundantly clear: it accounts for almost 50 % of the European Union’s resources, and has implications for rural areas throughout the 15 Member States at a time when the CAP is likely to be affected — and perhaps challenged — by a range of events:

- the recent health issues (BSE, foot-and-mouth disease, dioxin), regular warnings on nitrate levels in water, and questions about the use of GMOs have eroded consumers’ confidence in the ability of European agriculture and the European food industry to provide healthy, high-quality products under environment-friendly conditions. Farmers are often the victims of these devious practices, in the same way as consumers are;
- the opening of a new round of negotiations on trade liberalisation in Doha, including a chapter on agriculture, the call for reform of agricultural subsidies in the developed world by the G77 group at the World Summit on Sustainable Development in Johannesburg, and the

unilateral decisions on the part of the United States (Farm Bill) compel the European Union to deliberate on the best way to uphold the European agricultural model, as called for by the Committee of the Regions as long ago as 1999 (CdR 273/98 fin);

- the imminent entry into the EU of new countries, where the farm sector’s level of preparedness for the CAP varies, means that there must be discussion on how best to prepare these new members for Community requirements in areas such as food safety, traceability or environmental awareness. Common EU standards apply in principle to all Member States — there must be no scaling-down of the higher EU standards and differing standards must not be applied;
- the profound changes presently under way in rural society are leading farmers to question their place and role, the way they are viewed by society in general, and the future of the countryside against a backdrop of inter-territorial competition.

2.1. The Committee of the Regions is pleased to note, in this regard, that the European Commission restates the need to continue a long-term common agricultural policy. While there may still be room for progress in trade liberalisation, a common agricultural policy will continue to be essential in order to safeguard the European agricultural model and enable agriculture and rural communities to respond to the expectations of present-day society.

⁽¹⁾ OJ C 93, 6.4.1999, p. 1.

2.2. The European Commission's communication generally builds on a process launched some ten years ago which it seeks to complete and safeguard in the long term, but which sets out a number of fundamentally new elements to be included in the CAP. The purpose is to strike the best possible balance between demands which are difficult to reconcile, but which are equally crucial. Agenda 2000 set objectives around which a consensus has been established which the European Commission does not call into question:

- adjusting intervention mechanisms in order to strengthen their role as a safety net, with the aim of cutting export refunds, which distort trade and have earned worldwide criticism. Appropriate provisions must, however, ensure that European agriculture continues to have good opportunities on the national and world markets, without making matters even more difficult for the least developed countries;
- gearing agricultural production to the products or services wanted by the public, rather than to those offering the greatest financial incentives, by providing special support for traditional, high natural value production systems;
- upholding and stabilising farm incomes so as to ensure a fair standard of living for agricultural populations and to retain the greatest possible variety as regards both the form and size of farms. The CAP must help to promote hand-over to the new generation in the farm sector by offering attractive and economically stable prospects to young farmers. In this connection, the Committee would point to the guidelines set out in its opinion (Young people in European farming — a blueprint) adopted on 13-14 June 2002, and its backing for the joint declaration on young farmers issued by the European Parliament, the Committee of the Regions and the Economic and Social Committee on 6 December 2001;
- ensuring that concerns about food safety, product traceability, respect for the environment, protection of farm employment and occupation of the land are built into the CAP.

2.3. The Committee of the Regions' opinion on the European Commission's general approach will be based on these considerations.

3.1. In the CoR's view, the communication from the European Commission does not contain the details necessary to gauge the exact scope of each of the proposals. The way they are specified and implemented may substantially alter their thrust. They are simply outlines for a debate in the course of which Community interests, national concerns, and the specific interests of certain products or territories can then be voiced. Political arrangements may be reached after the debate has been completed.

3.2. The CoR wishes to see a greater acknowledgement of the role of local and regional authorities in promoting rural development in a reformed CAP. This is because local and regional authorities have legal responsibility for a range of statutory and discretionary rural activities which are directly related to the European Commission's proposals, such as strategic land management, and promoting the economic, social and environmental well-being of rural communities.

3.3. The Committee of the Regions endorses many of the proposed approaches. It approves and supports the payment of direct aid to offset falls in farmers' incomes and it supports the desire to make more of rural development as the second pillar of the CAP. It is also in favour of taking greater account of environmental and animal-protection requirements on a scale acceptable to farmers, with compensation for the additional costs incurred. It also understands the European Commission's wish to lower intervention prices. However, the Committee of the Regions also wonders whether the decoupling of direct payments from farmers' output, the nature and scope of the 'phasing-out' of direct payments in the area of market organisation and the method chosen for incorporating additional ecological requirements and monitoring compliance with these will actually lead to the stated objectives. Further close study of the proposed measures is needed.

3.4. The Committee of the Regions believes in particular that the European Commission's proposals are a good basis for discussion for the further development of the CAP after the expiry of Agenda 2000, but that the most significant of these proposals should not be implemented before the expiry of Agenda 2000. It would thus be appropriate to establish a legal and support framework for the PAC exceeding the duration of the present framework (six years), in order to ensure that farmers have sufficient confidence and trust in the legislative framework in force for the development of their activity in the medium term.

4.1. Entirely decoupling payments from any reference to production and introducing a single income payment per farm offers advantages. Basically, it confirms the principle by virtue of which price falls are offset by direct income support payments to farmers. The principle of single payments may streamline the administrative work involved in implementing the CAP. Decoupling reflects the wish to reinforce the market in its role in shaping agricultural production and farmers' entrepreneurial function: farmers' decisions would no longer depend on public incentives but primarily on market prices. The CoR also supports the principle of decoupling as a method of protecting European and Member State public finances. Direct aid decoupled from production would have to reflect the need to uphold agricultural employment, in order to prevent a rise in unemployment in certain regions.

4.2. The Committee of the Regions would, however, draw attention to the risks of the proposed system of decoupling, since it would confirm the current regional differences. The present proposal would maintain the present situation, where farmers with the highest yield receive much more aid per hectare than those producing less. Granting aid unconnected to production may distort the conditions of competition between farmers and destabilise certain products, as would be the case whenever an assisted farm was able to both keep the payments and switch from its former production to more profitable types, threatening other farms practising this type of production which had not previously received any public aid.

4.3. The proposed system might lead to some drawbacks, which need to be studied further, as for example:

- a decision by farmers to undertake new productions could generate over-capacity in certain markets presently in receipt of little aid, with a resulting fall in prices and possible abandonment of some farms. The Commission itself acknowledges this in point 2.5: decoupling '... may also create pressures towards abandonment in some marginal areas';
- changes in production may cause supply difficulties in certain branches of the food industry, and lead to company relocation (e.g. towards ports of arrival of imported farm products) detrimental to the economy of rural areas;
- this system might tend to drive up the price of farmland, where the reference to 'historical payments' would provide an entitlement to a high single payment: the resulting pressure on farmland might encourage the formation of large holdings rather than new farmers setting up. In the opposite direction, it might accelerate the trend to abandonment observed in some areas;
- the new system does not make provision for compensation or for the incorporation of new farmers.

4.4. The Committee of the Regions also has some questions about the appropriateness of the proposed methods for calculating the single income payments. It would be based on the level reached by all aid paid previously to the farm according to procedures yet to be specified. This gives rise to three questions, on which further investigation would be needed:

- Is the reference to historical entitlements compatible with gearing single payments to the objectives of the CAP?

- Is it acceptable that this system penalises those who, because they have opted for a more sustainable and less production-intensive way of agriculture, have received less subsidy?
- Is it sensible not to require any commitments regarding production on the part of beneficiaries?

4.5. Without ruling out decoupling in advance, the Committee of the Regions hopes that a rigorous assessment of the risks involved will be carried out prior to any decision, and that there will be a discussion on how to avoid this pitfall. There might be some drawbacks to the system proposed by the Commission, which need to be further studied.

5.1. The Committee of the Regions notes the European Commission's proposal to set up a progressive payment modulation system in all the Member States of the European Union, accompanied by capping and franchise arrangements. This can serve as a means of redressing the non-egalitarian nature of the current method for distributing aid, under which 20 % of farms receive 80 % of the Community contribution.

5.2. The introduction of a franchise will enable smaller and/or labour-intensive farms to be exempted from the progressive payment reduction. This is a step closer to meeting the concern earlier expressed by the Committee (CdR 273/98 fin) to encourage family farming and employment in rural areas. At the same time allowance should also be made for the peculiar structural situation of farming in some regions which results from the size of its businesses — in particular to avoid job losses. The question is, however, whether:

- the amount of the franchise should be raised; whether
- it would be appropriate to introduce supplementary franchises of up to 100 % of aid for young farmers, upland regions and islands, as well as farms concentrating exclusively on organic farming; and whether
- the rate of EU cofinancing should be improved for all measures under Regulation (EC) 1257/1999, rising to 75 % for non-Objective 1 areas, and 90 % for Objective 1 areas.

5.3. EU proposals to cap direct payments must be thought out and designed to reflect the diversity of land-ownership structures and farm sizes across the Member States' regions. A uniform maximum of EUR 300 000 is probably not a good solution throughout the European Union. It can sometimes encourage concentration of farms of up to 800 or 1 000 hectares, wiping out the previous family-run structure; on other occasions, in contrast, it can jeopardise employment and competitiveness in large farms.

5.4. The Committee of the Regions urges that territorial diversity be taken into account in the rules governing implementation.

6.1. The Committee of the Regions endorses the Commission's proposals to consolidate and strengthen rural development as the second pillar of the CAP. It welcomes the new accompanying measures aimed at encouraging farmers to participate in quality assurance and certification schemes, including geographical indications and designations of origin, animal and environmental protection, and organic farming.

6.2. However, it regrets that the European Commission sees rural development principally as an extension of farming activity. In most rural areas nowadays, agriculture is not the main economic activity: tourism, crafts, services, small-scale industry and cultural activities now complement farming as components of rural development. On the basis of experience with the Leader programmes, the Committee of the Regions calls for procedures to be devised for implementing rural development measures as part of a comprehensive strategy drawn up at individual territorial level by local actors themselves. It also calls for greater flexibility in the rules for use of the EAGGF guarantee section, so that rural territories can bring an innovative approach to their development projects.

7.1. The Committee of the Regions agrees with the indications set out in the Commission's communication for promoting more environment-friendly production methods. It specifically approves stronger standards in this area, a system of checks effectively making payment of aid dependent on compliance with requirements, and transitional help to facilitate farmers in adjusting.

7.2. The Committee of the Regions is, however, concerned at the difficulty in reconciling producers' compliance with environmental standards and their market competitiveness in a context of trade liberalisation. The Committee believes that actual implementation of the rules governing the environment, food safety, working conditions and animal welfare must be verified either within the WTO or at the point of entry of products into EU territory: otherwise, European producers will be penalised and there will be no appreciable impact on the main ecological balances.

8.1. Lastly, the Committee of the Regions considers that the future of the CAP must be shaped in the broader setting of the main challenges facing the European Union. The EU must present itself as a power capable of upholding its values and interests at world level.

8.2. Since the European Union is a world power, it must wield its influence to ensure that the rules governing international trade in farm produce match its interests and values. In keeping with this, the new CAP must take realistic account of the new international context arising from American unilateralism, and seek to set up a balanced, fair system of trade with the developing nations. These inseparable twin concerns do not stand out sufficiently in the European Commission's communication.

8.3. The imminent enlargement of the EU must not lead to a progressive watering-down of the European social and agricultural model in a vast and open market, with common policies gradually being abandoned. For this reason, the Committee of the Regions welcomes the Commission's determination to maintain a strong common agricultural policy. However, in its communication the European Commission remains vague about how farmers in the candidate countries can meet competitiveness, quality, traceability and food safety requirements, and about the possible impact of these changes on the countries concerned. The CoR believes requirements on food safety and animal welfare need to be maintained even in an enlarged EU. Nothing less than social and territorial cohesion are at stake here, and a balanced assessment of the positive and/or negative effects of the CAP on each of the territories comprising the post-enlargement EU remains to be made. It is therefore important to involve the candidate countries in the discussions on the mid-term review. The CoR hopes that in its proposal, the Commission will specify the help to be given to farmers in the candidate countries in order to progressively meet these requirements.

8.4. Lastly, the Committee of the Regions regrets that the European Commission fails to establish a link between CAP reform and reform of regional policy. This ties in with the weakness of the territorial impact analysis for the proposed measures. As parallel debates are conducted on the two costliest Community policies, this is the moment for tackling them together, so that neither is seen as the balancing variable of the other.

9.1. The Committee of the Regions did not believe it practicable, in the present opinion, to broach the specific problems posed by the organisation of the market in each of the main farm products. Firstly, the planned timetable would not allow it to carry out meaningful consultations with the various players; and secondly, it seemed appropriate to give the priority to describing the main lines of the reform and, if necessary, to point out any ambiguities. At the appropriate time, the Committee of the Regions would hope to be consulted on the specific measures to be proposed.

9.2. Lastly, the CoR is surprised by the absence of any reference to the regional dimension of the Common Agricultural Policy. This is all the more damaging in that this policy has a growing structural dimension of direct concern to the regional authorities, who are increasingly pressed to contribute to the funding of certain agricultural flanking measures. The CoR therefore calls upon the European Commission to formulate proposals in this area, so that regional and local authorities can occupy their rightful position and play their proper role, particularly in terms of alleviating the structural disadvantages affecting certain upland regions and islands in the European Union.

9.3. At this stage, however, the Committee of the Regions wishes to emphasise the need, when implementing the CAP, to take on board the diversity of territories, crops and production methods throughout the European Union; the cohesion objective laid down by the Treaty recommends that Community rules be brought into line with this diversity in order to reduce disparities between the levels of development and the backwardness of the least favoured regions or islands. The following should also be given their proper place, which they lack in the current text:

- Scandinavian and Mediterranean agricultural production;
- production from regions affected by permanent structural disadvantages as a result of their island or upland situation.

It will probably also have to be accepted that, for certain products, regulation by the market will not allow CAP objectives to be met, and that mechanisms similar to those currently in force for sugar and milk should not be ruled out systematically.

9.4. The Committee of the Regions believes that sustainable rural development can only be achieved by fully involving

local and regional authorities in the detailed implementation of the final reforms. The Mid-Term Review is a good start to the process of reforming the CAP, recognising that support to agriculture must be matched by clear measures to promote a living countryside. A reformed CAP is vital to the future of an enlarged Europe. The CoR also recognises that it is important to get these reforms right rather than agree half-measures.

9.5. In the Committee of the Regions' view, the growing debate must not be dogmatic in tone and should, in the final analysis, achieve a balance between regulation of the market and regulation by the Community, without which the European agricultural method would be under threat. The stakes are so high that the EU's partners must take all the time they need.

9.6. In this respect, the Committee of the Regions welcomes the fact that the Brussels European Council of 24 and 25 October 2002 did not call into question the need for, and the main objectives of, a far-reaching reform of the Common Agricultural Policy.

It notes the Council's desire to look at the future of agriculture from a long-term perspective (2013) and welcomes the reassertion of the need to maintain multifunctional agriculture in all areas of Europe and to safeguard the needs of farmers in the disadvantaged regions.

The Committee of the Regions hopes that the time the European Council has given itself to complete this reform will be used to look in detail at the consequences of decoupling payments and production, to take into account the diversity of farmers throughout Europe in the modulation of payments, and to find the resources to finance rural development that is vital for the territorial cohesion of Europe.

Lastly, the Committee of the Regions hopes that it will be kept informed of the progress made by the Commission in terms of its deliberations on the reform of the CAP and consulted on the legislative proposals it will be required to put forward.

Brussels, 20 November 2002.

*The President
of the Committee of the Regions*
Albert BORE

Opinion of the Committee of the Regions on the 'Communication from the Commission on the Action Plan for skills and mobility'

(2003/C 73/08)

THE COMMITTEE OF THE REGIONS,

having regard to the Communication from the Commission on the Action Plan for skills and mobility (COM(2002) 72 final);

having regard to the European Commission decision of 20 February 2002 to consult it under the first paragraph of Article 265 of the Treaty establishing the European Community;

having regard to the decision of its Bureau on 12 March 2002 to instruct Commission for Culture and Education to draw up an Opinion on this subject;

having regard to its Opinion on the Proposal for a Council Directive concerning the Status of Third-Country nationals who are long-term residents (CdR 213/2001) ⁽¹⁾;

having regard to its Opinion on the Communication from the Commission — Making a European area of lifelong learning a reality (CdR 49/2002 fin);

having regard to the European Parliament Draft Report of the Committee on Employment and Social Affairs on the Commission's Action Plan for skills and Mobility, PE 316-348 (rapporteur: Mrs Regina Bastos);

having regard to its Draft Opinion (CdR 138/2002 rev. 2) adopted on 30 September 2002 by its Commission for Culture and Education (rapporteur: Mrs Jennette Arnold, Member of the Greater London Authority (UK-PES));

whereas:

- 1) the European Union calls for the commitment of all actors, including local and regional authorities, to achieve the goal for Europe to become the most competitive and dynamic knowledge-based economy in the world capable of sustaining growth with more and better jobs and greater social cohesion as laid down in the Lisbon European Council;
- 2) the development of the skills of EU citizens contributes to the goal of creating a competitive economy;
- 3) local and regional authorities are driving forces behind regional economies and play a key role in bringing together the partnerships needed to create a more responsive learning and training environment in order to increase occupational mobility;
- 4) increasing skills and geographic mobility should be seen in the context of sustainable development and of the general cohesion of the Union,

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

1. The Committee of the Regions' views and recommendations

most competitive and dynamic knowledge-based economy in the world;

The Committee of the Regions

1.1. welcomes the Commission Action Plan on Skills and Mobility which promotes human-resource development, in the context of achieving the Lisbon goal of creating the

1.2. agrees with the Commission's view that a skilled and adaptable labour force, which is able to access employment across the EU, is essential to ensure greater competitiveness, employability and the development of social cohesion. The Committee of the Regions emphasises the strategic role local and regional authorities play in developing human-resource policies which are responsive to the needs of the individual and the labour market;

⁽¹⁾ OJ C 19, 22.1.2002, p. 18.

1.3. is concerned that issues of inclusion and equal opportunities are not adequately addressed in the Action Plan. Tackling barriers to lifelong learning because of discrimination and lack of basic skills is key to creating a competitive economy particularly in the context of an ageing population;

1.4. sees EU programmes as playing a crucial role in developing skills and geographic mobility in the Union. Programmes should continue to access all groups facing barriers to employment or labour-market progression and greater effort should be made to improve the links between human-resource measures and other aspects of Structural Funds such as ERDF and Community initiatives;

1.5. stresses that local and regional authorities often seek to implement sound measures, such as training courses, designed to improve skills and mobility, but sometimes are obliged to give up for want of funds. Greater financial support from the EU would enable local and regional authorities to put more of their proposals into practice;

1.6. believes that occupational mobility and geographic mobility empower individuals and provide them with the opportunity to take free and responsible decisions for their own lives. However, increased geographical mobility should not be at the expense of the sustainable development and cohesion of the EU. Geographic mobility can produce economic imbalances, particularly in rural areas, where increased mobility of the young results in an ageing population. In order to ensure that geographic mobility does not take on a negative connotation, specific economic support should be provided for rural areas and other areas at risk of depopulation, and training schemes should be devised to give young people the opportunity to undertake more highly skilled employment in these areas. If appropriate measures are not taken to counter this phenomenon, as recommended by the Committee, the accession of the candidate countries could lead to an exacerbation of this problem;

1.7. urges the Commission to undertake an assessment of migration on departure regions as well as destination regions particularly in terms of local services such as housing, education, health and social services.

2. Occupational mobility

The Committee of the Regions

2.1. agrees with the Commission that fundamental to creating a dynamic competitive European economy is the encouragement of job mobility;

2.2. wishes to stress that job mobility cannot be encouraged unless individuals have good basic skills such as literacy, numeracy and IT and basic employability skills. In particular, it is essential that young people receive a high standard of basic skills, including social skills before leaving the educational system. Language learning from the earliest age is also essential. Moreover, as outlined in the CoR Opinion on the Communication on Making a European area of lifelong learning a reality, CdR 49/2002 fin (rapporteur Mrs Christina Tallberg), the CoR sees understanding and respect of fellow citizens as part of the key skills individuals need in a more integrated European economy;

2.3. is concerned that the Action Plan does not adequately address the issue of access to learning for all. The CoR believes that increasing access to learning for all the citizens of Europe is of fundamental importance and the key to ensuring that the Lisbon goals are achieved. Increased demand for higher skills and particularly developments in ICT tend to marginalise those with low skills. The CoR emphasises equal opportunities for all regardless of race, ethnic origin, gender, disability, sexual orientation, age, or religion, and stresses the importance of creating a social infrastructure to support those facing barriers to learning, in particular through the provision of childcare and elderly care to enable women to learn;

2.4. agrees with the European Commission that educational establishments and learning providers need to become more responsive to the needs of learners and the labour market. The CoR believes that competitiveness of business is dependent on its ability to adapt to continually developing technology and on the ability of the workforce to adapt to these changes. The Committee urges the Commission to assess how increased labour mobility will affect the need for education and labour demand at regional and national level;

2.5. would strongly emphasise the leading role of local and regional authorities in mobilising partnerships between all the actors at local level and between geographical areas within EU Member States that share common characteristics in terms of sectors of economic development, and therefore common training and labour-force needs. The CoR also stresses the importance of promoting specific programmes to support occupational mobility by means of partnerships involving businesses and public authorities;

2.6. welcomes the establishment of a network of industry/educational advisory bodies to strengthen cooperation between the world of work and the educational systems. Given the strategic role local and regional authorities play in developing these partnerships, the CoR calls for the inclusion of local and regional authorities in such networks;

2.7. believes that occupational mobility cannot be achieved without joint recognition of qualifications. The CoR supports Commission action to develop instruments supporting the transparency and transferability of qualifications and in particular the recognition of non-formal learning;

2.8. supports the development of a 'modular' system for the accumulation of qualifications. The CoR feels that there is scope to link such a system to Community training and exchange programmes so as to increase the transparency and openness of European qualifications systems

2.9. agrees with the Commission that resources should be made available for investment in human resources, especially in lagging regions. However the CoR points out that barriers to learning are an issue for socially excluded groups across the whole Union. The CoR stresses the important role that the European Social Fund plays within the framework of the European Employment Strategy in developing human capital of disadvantaged groups, wherever they reside within the Union.

3. Geographic mobility

The Committee of the Regions

3.1. strongly agrees with the Commission that geographic mobility should not be considered as an end in itself but should be considered as a real choice for individuals;

3.2. believes that an increase in geographic mobility should not be at the expense of the cohesion of the Union as a whole. The CoR believes that the European Commission should place greater emphasis on linking skills' development to the promotion of balanced regional development. Human-resource policies should be developed within the wider context of the Structural Funds and Community Initiatives;

3.3. is of the view that individuals often become geographically mobile through lack of real choice, which is often characterised by migration of unskilled workers from poorer to richer regions. It believes that whilst unskilled migrant workers can obtain entry-level employment, issues remain about their occupational mobility;

3.4. stresses that local and regional authorities, as the level of government closest to the people, play a key role in supporting the integration of migrant communities. It considers that the impact of migration on local services such as housing, education, health and social services should be examined. It therefore calls on the Commission to conduct a survey with a view to disseminating good practice in schemes run by local bodies to facilitate and support mobility by providing special services for members of migrant communities;

3.5. notes that geographic mobility between Member States but also within Member States is low in the EU. The CoR would stress that barriers to geographic mobility within Member States remain important and the elimination of these barriers should be given equal priority to the removal of barriers between Member States;

3.6. welcomes the emphasis placed on removing remaining administrative and legal barriers in the Action Plan. Discrimination in access to employment, incompatibilities between tax, social security and public health systems and pensions of Member States all create barriers to mobility and the CoR welcomes moves to overcome them. To this end the Committee of the Regions reiterates the points made in the opinion on the Proposal for a European Parliament and Council Directive on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States. Eliminating these barriers to mobility does not, however, mean harmonisation of Members States' tax, social security, public health and pension systems;

3.7. strongly welcomes the proposal to undertake studies looking at the obstacles to mobility in the EU. Given the strategic role of local and regional authorities in economic development, the CoR calls for their involvement in framing these studies;

3.8. acknowledges that language and cultural barriers are significant in the EU compared with other similar economies and is of the view that the acquisition of language skills should begin early so that people grow up within the framework of a multilingual society;

3.9. highlights the importance of Community programmes such as Leonardo, Socrates and Youth in developing language and cross-cultural skills; and calls on the Commission to set up Community programmes for older people too, be they in employment or unemployed, or at risk of exclusion from the labour market, to help them retrain or find a new job;

3.10. stresses the important role that local and regional authorities play in encouraging cross-cultural exchange within the Union. The CoR welcomes the proposal for increased opportunities for exchanges for students and trainees. The CoR stresses that people from disadvantaged backgrounds face greater barriers to mobility and recommends that EU programmes facilitate their involvement. Given the proposals for increased mobility exchanges, the CoR urges a review of the budgetary resources available;

3.11. notes the call for a common immigration policy for third-country nationals and 'agrees that there is an undoubted need today, and particularly in the future, for skilled and unskilled labour in the European Union' [Opinion of the CoR on the Proposal for a Council Directive concerning the

status of Third-Country nationals who are long-term residents (CdR 213/2001 fin)].

4. Improving information and transparency of job opportunities

The Committee of the Regions

4.1. welcomes the setting-up of a one-stop European Mobility Information Site. The CoR would draw attention to the role of local and regional authorities in disseminating information directly to the citizen and is therefore of the view that local and regional authorities should be involved in any information activities and information campaigns. Local and regional authorities are often the first point of contact for information and it is vital that the potential to serve as a conduit for information is not disregarded. In particular local authorities are closest to the people and are therefore best able to access the socially excluded.

Brussels, 20 November 2002.

The President
of the Committee of the Regions
Albert BORE

Opinion of the Committee of the Regions on:

- the ‘Communication from the European Commission on the Follow-up to the multiannual Community action plan on promoting safer use of the Internet by combating illegal and harmful content on global networks’, and
- the ‘Proposal for a Decision of the European Parliament and of the Council amending Decision No 276/1999/EC adopting a multiannual Community action plan on promoting safer use of the Internet by combating illegal and harmful content on global networks’

(2003/C 73/09)

THE COMMITTEE OF THE REGIONS,

having regard to the Communication from the European Commission on the Follow-up to the multiannual Community action plan on promoting safer use of the Internet by combating illegal and harmful content on global networks and the Proposal for a Decision of the European Parliament and of the Council amending Decision No. 276/1999/EC adopting a Multiannual Community action plan on promoting safer use of the internet by combating illegal and harmful content on global networks [COM(2002) 152 final-2002/0071 (COD)];

having regard to the decision of the Council of the European Union of 12 April 2002 to consult it under the first paragraph of Article 265 of the Treaty establishing the European Community;

having regard to the decision of its Bureau of 6 February 2002 to instruct the Commission for Culture and Education to draw up an Opinion on this subject;

having regard to its Opinion on the Communication from the Commission on the follow-up to the Green Paper on the protection of minors and human dignity in audiovisual and information services including a Proposal for a Council Recommendation and the Communication from the Commission and Proposal for a Council Decision adopting an action plan on promoting safe use of the Internet (CdR 54/98 fin) ⁽¹⁾;

having regard to its Opinion on the Communication from the Commission on Network and Information Safety: Proposal for a European Policy Approach (CdR 257/2001 fin) ⁽²⁾;

having regard to its Opinion on the Communication from the Commission on Creating a Safer Information Society by Improving the Security of Information Infrastructures and Combating Computer-related Crime: eEurope 2002 (CdR 88/2001 fin) ⁽³⁾;

having regard to its Opinion on Local and regional cooperation to protect children and young people from abuse and neglect in the European Union (CdR 225/1999 fin) ⁽⁴⁾;

having regard to its recommendations made during the seminar on Local and regional cooperation to protect children from abuse, held on 4 December 1998 (CdR 326/98 fin);

having regard to its draft Opinion (CdR 140/2002 rev. 2) adopted on 30 September 2002 by its Commission for Culture and Education [Rapporteur: Mr Luigi Sergio Ricca, Mayor of Bollengo (I/PES)],

adopted the following Opinion unanimously at its 47th plenary session of 20 and 21 November 2002 (meeting of 20 November).

1. The Committee of the Regions' views

The Committee of the Regions

1.1. welcomes the Commission's decision to extend the current action plan on promoting safer use of the Internet, due

to end on 31 December 2002, for a second phase of two years, adapting the scope and implementation of the action plan in order to take into account the lessons learned and new technologies, and to ensure coordination with parallel work in the field of network and information security;

1.2. notes that the second phase of the Safer Internet Action Plan prepares for a possible subsequent wider initiative related to content in Internet and new online media. The coverage of

⁽¹⁾ OJ C 251, 10.8.1998, p. 51.

⁽²⁾ OJ C 107, 3.5.2002, p. 89.

⁽³⁾ OJ C 107, 3.5.2002, p. 29.

⁽⁴⁾ OJ C 57, 29.2.2000, p. 46.

safer use will be extended to new online technologies, including mobile and broadband content, online games, peer-to-peer file transfer, and real-time communication such as chat rooms and instant messaging. The initiative will cover a broader range of areas of illegal and harmful content and conduct of concern, such as racism and violence;

1.3. shares the concerns of lawmakers, parents and industry regarding illegal and harmful content available on the Internet and welcomes the fact that, with the action plan, the European Union took a groundbreaking stance against such content, based on a strategy agreed unanimously by the European Parliament and the Council. The action plan is supplemented by legal instruments and practical measures to combat computer crime and child pornography and the Recommendation on Protection of Minors and Human Dignity. The Safer Internet Action Plan is a pillar of Community action in this field and is one of the issues connected with information and communication technologies (ICT). ICT have been a priority of the EU for some time now, especially since the Lisbon summit in 2000 and the eEurope action plan which followed;

1.4. notes the continuing and serious public concern about illegal and harmful content on the Internet, but points out that a number of issues remain unresolved, such as what can be classified as harmful content for children of a certain age, who should set the general rules to be applied to content providers and who should decide how these rules are to be applied;

1.5. welcomes the fact that the Commission has taken into account future needs, considering that the use of the Internet and new online technologies is set to increase and diversify. Although in general this marks a positive trend, at the same time the use of these technologies to spread illegal and harmful content will also increase and diversify;

1.6. notes that the Commission has accepted the suggestions set out in the intermediate evaluation of the action plan, which gave a positive assessment of the first two years of application but also made a number of criticisms in the form of fifteen recommendations, to which the Commission has responded with its proposal to amend Decision 1999/276/EC;

1.7. endorses the outline of the programme and the action lines proposed by the Commission for the second phase. Considers the general format of the programme to be well-structured and balanced and endorses the action lines designed to:

- empower users to report findings of illegal content;
- promote self-regulation;

- enable users to avoid harmful content;
- foster a user-friendly system of content rating;
- promote safe use of the Internet.

However the CoR would make the following points and recommendations:

2. The Committee of the Regions' recommendations

The Committee of the Regions

2.1. calls for a move from a passive strategy of selecting filtering services, software and Parental Control Technology available on the market to an active approach of supporting and contributing to the development of software or software components designed to ensure a level of parental control in line with Commission guidelines. Research carried out by universities, the 'Open Source' community and external manufacturers of such commercial products could be the best channels for exploring this technology;

2.2. emphasises that, considering the rising online trend of using peer-to-peer technology and the increasing advantages it presents, the programme of technology coverage should place greater emphasis on this method of exchanging content; also stresses that the promotion of an action plan on filtering technology should not focus solely on private users;

2.3. considers that priority support should be given to the creation and promotion of high-quality European content designed specifically for children or for those needing protection. This is a particularly important initiative since the rapid spread of broadband networks has led to a further expansion of navigable sites, and has created new opportunities to place harmful and illegal content;

2.4. calls for a move from a passive to an active approach in support of self-regulation, establishing a relationship with Internet Service Providers (ISP). This would involve cooperation as regards systems to catalogue and classify sites and related Internet content, and thereby extend the area of classification with the aim of overcoming resistance by economic interests and the slowness of procedures. Search engines should give priority listing to duly labelled sites. Hotlines and filtering systems are proving to be slow and difficult to develop. The most effective approach would be that of legislative self-regulation in the form of ISP codes of conduct.

2.5. calls for an assessment of the possibility of setting up a body to supervise and coordinate the entities and organisations involved in the self-regulation and classification process to maximise the potential both for control and for information;

2.6. underscores that the annual financial allocation is virtually the same as that already scheduled for the action plan and seems inadequate to cope with the extended programme proposed for the second phase. Furthermore the distribution of resources between the key fields of action and the others appears imbalanced. In order to have a discernible impact, resources should be concentrated on a more limited number of projects with defined measurable goals.

The CoR proposes:

- identifying schemes to run in given geographical areas as testing grounds for control practices to be 'exported' to other areas;
- identifying access schemes, for example points of access to public networks, such as schools, libraries, local authorities, chambers of commerce etc.;
- protecting public points of access to the Internet by means of a 'European product', developed by EU-funded research, which would work as a plug-in adjunct to the browser, to filter navigation. Clearly such a filter must not be incompatible with general use for other purposes.

2.7. draws attention to the need to reappraise the cost effectiveness of 'awareness-exchange' initiatives, also regarding effective communication between projects and exchanging material that often cannot be reused by a wider public (due to age, social standing, technological ability, Internet experience);

2.8. emphasises that the fact that the Internet has no geographical borders and that users can unknowingly access content posted outside the EU demands close cooperation with all third countries, not only candidate countries. Therefore strategic initiatives are needed to strengthen EU cooperation with third countries and organisations, especially with those with fewer legislative restraints. This means exploring and ratifying international agreements on this delicate matter, to outlaw providers which publish illegal sites and therefore make them subject to legal proceedings. This issue particularly concerns Eastern European and South-East Asian countries which, despite being technologically advanced, lack appropriate legislation or in any case do not enforce legislation on ensuring the safe use of the Internet;

2.9. considers that for maximum effectiveness, the goals of the EU's action plan should be supported by a legislative framework at national level. The CoR calls for a legislative framework to be drawn up in accordance with the action lines, together with some guidance on self-regulation. It could be useful to set up a European team of legal and IT experts to monitor and filter illegal information. The team would work in close cooperation with police forces and could help identify and close down illegal sites. The team should keep databases of filtering systems constantly up to date, both on URL (Universal Resource Location), and on illegal, harmful or inappropriate content;

2.10. considers that some of the problems associated with a safe use of the Internet could be resolved by an intensive education drive designed to raise awareness on this matter. Regional and local authorities must have a key role in all awareness-raising campaigns in this sector.

The role of regional and local government in promoting safer use of the Internet

The Committee of the Regions

2.11. underscores the crucial need to involve local and regional authorities in all initiatives and programmes laid down in the Commission proposal, since it is at local level that harmful practice physically reaches the more vulnerable end-user. In addition, these authorities are responsible for education services and spend considerable sums on promoting computer training and use in schools. It is therefore necessary to adopt measures designed to inform young people of the security aspects of the information society and the consequences of computer-related crime;

2.12. considers, on the other hand, that the full and effective involvement of families could pose a problem. Often parents do not get involved and leave their children unsupervised, either through their own lack of technological knowledge or interest, or even because they too visit non-educational sites;

2.13. calls therefore for wider involvement of local and regional authorities in initiatives conducted under the plan, bearing in mind that the information society makes possible new forms of civil society and regional and local democracy; as these citizens' networks tend to have a high level of participation, they are particularly at risk of attack and external manipulation, in some cases of a racist or extremist kind. There is a danger that confidence in the services may be undermined;

2.14. underscores the important role of local authorities in ensuring a balanced development of the knowledge and information society in the European Union that will enhance economic and social cohesion in regions, cities and districts throughout Europe. Consequently it is essential to guarantee the security of information systems and networks;

2.15. notes that the lack of confidence in information networks and systems is slowing down the widespread introduction of new services connected with the information and knowledge society;

2.16. emphasises that due to their proximity to the public, cooperatives and businesses, local and regional authorities

have a crucial role in carrying out practical measures designed to ensure the efficacy of the action plan. In its current form, the programme does not sufficiently reflect the involvement and role of local and regional authorities alongside other major groups (for example, government agencies, university institutes and voluntary groups which play an important, often principal role in this field). For this reason, attention should also be focused on training initiatives to boost the qualifications of voluntary workers, with the involvement of local and regional authorities;

2.17. recommends moreover that the measures identified as necessary are not delayed for financial reasons.

Brussels, 20 November 2002.

*The President
of the Committee of the Regions*
Albert BORE

Opinion of the Committee of the Regions on:

- the ‘Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions eEurope 2002: creating a EU framework for the exploitation of public sector information’, and
- the ‘Proposal for a Directive of the European Parliament and of the Council on the re-use and commercial exploitation of public sector documents’

(2003/C 73/10)

THE COMMITTEE OF THE REGIONS,

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 — eEurope 2002: creating a EU framework for the exploitation of public sector information (COM(2001) 607 final) and the Proposal for a Directive of the European Parliament and of the Council on the re-use and commercial exploitation of public sector documents (COM(2002) 207 final — 2002/0123 (COD));

having regard to the decision of the Council of 24 July 2002, under the first paragraph of Article 265 of the Treaty establishing the European Community, to consult the Committee on this matter;

having regard to its Bureau's decision of 12 March 2002 to instruct the Commission for Culture and Education to draw up an opinion on the matter;

having regard to the Green Paper on Public sector information: a key resource for Europe (COM(98) 585 final);

having regard to its opinion (CdR 190/1999 fin)⁽¹⁾ on Public sector information: a key resource for Europe — Green Paper on public sector information in the information society (COM(98) 585 final);

having regard to the eEurope 2002 Draft Action Plan: An Information Society for All (COM(2000) 330 final);

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 — The Introduction of Third Generation Mobile Communications in the European Union: State of Play and the Way Forward (COM(2001) 141 final);

having regard to the multiannual Community programme to stimulate the development and use of European digital content on the global networks and to promote linguistic diversity in the information society eContent (Council Decision 2001/48/EC of 22 December 2000)⁽²⁾;

having regard to the Directive of the European Parliament and of the Council on the harmonisation of certain aspects of copyright and related rights in the information society (2001/29/EC);

having regard to the Directive of the European Parliament and of the Council on the legal protection of databases (96/9/EC);

having regard to the study for the European Commission on commercial exploitation of public sector information (October 2000) drawn up by Pira International;

having regard to its draft opinion (CdR 134/2002 rev.) adopted on 30 September 2002 by the CoR Commission for Culture and Education [rapporteur: Ms Adela María Barrero Flórez, Director General of European Affairs, Government of the Principality of Asturias (E/PES)],

adopted the following opinion at its 47th plenary session of 20 and 21 November 2002 (meeting of 21 November).

⁽¹⁾ OJ C 57, 29.2.2000, p.11.

⁽²⁾ OJ L 14, 18.1.2001.

1. The Committee of the Regions' views

The Committee of the Regions' underlines

1.1. the huge benefits that the development of the information and knowledge society has on the quality of life of citizens, the competitiveness of companies, job creation and the quality of public services;

1.2. the predominant role that the exploitation and re-use of information plays in developing the so-called information and knowledge society;

1.3. the great economic and, therefore, job-creation potential of the invaluable information that the public sector creates, compiles and exploits and which forms an essential basis for many digital information products in the content sector and an important raw material for new added-value services, in both the private and public sector, which use various channels including the wireless internet;

1.4. that local and regional authorities are among the main producers, compilers, owners and suppliers of public sector information and therefore place great importance on a proper and extensive compilation and exploitation of such information;

1.5. the at present limited possibilities for exploiting public sector information in Europe owing, to a large extent, to the lack of clear and consistent rules and practices governing this area throughout the European Union, and insufficient information in the public sector itself;

1.6. the general uncertainty about the conditions for using and exploiting public sector information in the European Union which, to a large extent, prevents companies in the content sector from carrying out cross-border exploitation of such information;

1.7. the importance for local and regional authorities of disseminating and re-using generally accessible information in order to exercise more effectively their public task as the political representatives closest to citizens, organisations and companies;

1.8. the different cultural and administrative traditions between Member States and between local and regional bodies regarding the collection and organisation of public sector information and the fact that, at all events, the issue of access to public sector information is a national, regional and local competence;

1.9. the huge impact on the economic and social development of contemporary society of a more efficient and extensive use and exploitation of public sector information by the public sector as well as by citizens, companies and organisations;

1.10. the importance of and need for common rules and practices governing the re-use and exploitation of public sector information to ensure that the same basic conditions are applied to all players in the European information market, conditions for re-using such information are more transparent, and distortions of the internal market are eliminated;

1.11. that the documents discussed in the draft Directive are part of a package of political measures being developed in connection with the establishment of a minimum set of common rules governing the commercial and non-commercial exploitation of public sector information in the Member States.

2. The Committee of the Regions' recommendations

The Committee of the Regions

2.1. agrees with the Communication that improved use of public sector information could turn this resource into a valuable asset for citizens, businesses and administrations, who can greatly benefit from a good provision of public sector information on the Internet;

2.2. shares the Commission's belief that public sector information has a considerable economic potential as it is an essential basis for many digital information products and could become an important raw material for new services and in particular for the wireless internet;

2.3. agrees with the draft Directive that a minimum harmonisation of the rules and practices of the Member States on the re-use of public sector information will help create better conditions for the exploitation of such information. This in turn will considerably boost economic activity and job creation, and lead to a better use of this information, bringing other benefits for citizens in the form of a range of added-value information products that the public sector itself cannot provide;

2.4. welcomes the fact that the Directive limits itself to the minimum harmonisation needed to give market players legal certainty and transparency, thereby helping to ease or overcome the main barriers for industry, gives the Member States a sufficient margin for manoeuvre with regard to its implementation and, as a general principle, allows each public sector body to decide whether or not to allow the re-use of general information;

2.5. regrets the title of the proposed Directive because, as is clear from the title of the Communication, it is the exploitation of public sector information and not the exploitation of public sector documents that needs regulating, the latter already being covered by the legislation of some Member States;

2.6. considers that both the scope of the Directive and the possible grounds for exclusion from it should refer not only to information contained in documents held by public sector bodies but also to documents produced by them;

2.7. also believes that, in line with the Directive's aim and scope, the definition of 're-use' found in the proposed Directive should include the 'exploitation' as well as the 'use' of public sector information;

2.8. welcomes the fact that the Directive's scope respects the rules established in the Member States for defining generally accessible documents and, at all events, safeguards the protection of privacy and the intellectual property rights of third parties;

2.9. believes that the definition of 'document' should be clarified so that the differences in terms of, inter alia, data security between the release of a single document and the release of a block of documents would be taken into account;

2.10. believes that the scope of the draft Directive should exclude not only the types of public sector information listed but also documents produced or held by the political bodies of public administrations that must be excluded according to national legislation;

2.11. supports the re-use of generally accessible public sector information for both commercial and non-commercial purposes, and welcomes the fact that the proposed Directive attempts to reduce to a minimum the additional administrative burden that making such information available may place on public bodies;

2.12. considers that the Directive should set out requirements for the use of public sector information by commercial companies. For commercial companies, this could mean, among other things, a requirement to preserve the quality of public sector information and to ensure that it is up-to-date, that is used correctly, and is not open to misinterpretation. The information must retain its authenticity and the source be properly acknowledged;

2.13. believes that, as part of the experimentation and dialogue actions proposed by the Commission, priority should

be given to supporting and fostering experimentation, at all levels of the public sector, regarding the standardisation of electronic formats and metadata structures, as these issues have a huge practical impact for information available in electronic format and could avoid the need to provide such information in all pre-existing formats;

2.14. agrees with the principles for charging laid down in the proposed Directive as they entitle public bodies, whenever they deem it necessary or appropriate, to recover the cost of producing, reproducing and disseminating information through the charge for re-using it but, given that this concerns generally accessible information of public sector bodies, considers it inappropriate for the charging principles to include a profit margin;

is also concerned about the potential economic value on the market of products which are obtained through the exploitation of public sector information by the private sector and may significantly reduce its general use;

2.15. agrees with the proposed Directive on the general need to prevent conduct that may constitute an abuse of a dominant position and welcomes the fact that exclusive arrangements for the exploitation of public sector information may be allowed in some specific cases when such arrangements are needed to safeguard the provision of services of general interest;

2.16. is concerned that the proposed Directive's failure to consider transitional provisions or periods may affect conventions or contracts for the re-use or exploitation of information that have been concluded between public bodies and private companies and are in force at the time of entry into force of the draft Directive;

2.17. proposes defining objective indicators so that the Directive's global impact can be properly analyzed in the reviews to be carried out following its entry into force;

2.18. welcomes the establishment of a Group to Promote Digital Public Data that will act as a coordination platform and sounding board and, in order to highlight the importance of giving consideration to interested decentralised bodies when applying the open method of coordination, insists that local and regional authorities participate in this Group.

Brussels, 21 November 2002.

*The President
of the Committee of the Regions*
Albert BORE

Opinion of the Committee of the Regions on the 'Proposal for a Decision of the European Parliament and of the Council adopting a multiannual programme for action in the field of energy: "Intelligent Energy for Europe" Programme (2003-2006)'

(2003/C 73/11)

THE COMMITTEE OF THE REGIONS,

having regard to the proposal for a decision of the European Parliament and of the Council adopting a multiannual programme for action in the field of energy: 'Intelligent Energy for Europe' Programme (2003-2006) (COM(2002) 162 final — 2002/0082 (COD);

having regard to the decision of the Council of 6 May 2002 under Article 175(1) of the Treaty establishing the European Community, to consult it on this matter;

having regard to the decision taken by its Bureau on 12 March 2002 to instruct the Commission for Sustainable Development to draw up an opinion on this subject;

having regard to its opinion of 15 November 2001 on the Commission Green Paper: Towards a European strategy for energy supply security, CdR 38/2001 fin (1);

having regard to the draft opinion adopted on 3 October 2002 by the Commission for Sustainable Development (CdR 187/2002 rev. — rapporteur: Mrs Agnès Durdu, Mayor of Wincrange, L/ELDR),

adopted this opinion at its 47th plenary session of 20 and 21 November 2002 (meeting of 20 November) by a majority.

1. Views and recommendations of the Committee of the Regions

1.1. The CoR notes with satisfaction that the Commission had the first framework programme analysed by independent experts, and that on the basis of their conclusions and the experience acquired, and on the basis of Community and international requirements, the second multiannual programme has been redirected towards the desired objectives.

1.2. The CoR congratulates the authors of the proposal on the way they have given better structure to the participants' activities by limiting the Community intervention to four specific fields of action:

- Save: rational use of energy and demand management;
- Altener: new and renewable energy sources;
- Steer: energy aspects of transport;
- Coopener: promotion at international level, particularly with the developing countries, of cooperation in the fields of renewable energy sources and energy efficiency.

1.3. The CoR takes the view that implementing the specified actions in these four specific fields will help the Community and Member States to achieve the desired objectives with regard to security of energy supply, competition, protecting the environment and slowing climate change.

1.4. The CoR congratulates the European Union on the financial support given to the second multiannual programme. The increase from EUR 175 million to EUR 215 million represents a significant increase in the funds available to the various participants.

1.5. The CoR takes the view that, by combining this financial increase with a list of fields of action eligible for subsidy, the actions undertaken will have a targeted and precise effect of reducing energy needs and increase the use of renewable energy sources.

1.6. The CoR is pleased to note that the European Union, through the Coopener programme, is continuing its efforts to promote renewable energy sources and energy efficiency in the developing countries. The European Community thus demonstrates the seriousness of its international commitment. The CoR hopes that the European Union will be able to guide the developing countries effectively, and particularly help them to avoid the errors which have been made in Europe.

(1) OJ C 107, 3.5.2002, p. 13.

1.7. In the context of the present programme, the Commission reserves the right to call upon an implementing agency. Certain management tasks of the programme would be delegated to it. The Commission explains that if such an agency were not used, human resources at the Commission would need to be significantly increased. The CoR does not intend to criticise this approach to management of this matter, provided that the tasks involving an element of assessment to interpret political choices will remain a matter for the Commission and that the latter ensures rapid, effective and smooth cooperation between itself, the agency and the regional and local actors on the ground, all in the interests of the energy objectives.

1.8. Under Article 1 of the proposal the programme would contribute to three general objectives: security of supply, competitiveness and environmental protection. The same article states that the programme seeks to promote 'an effective link between these measures and actions carried out under other Community policies'. Efforts must continue to make private consumers, and investors in general, more aware of energy policy. It should be constantly explained to them that economic utility goes hand in hand with the environmental need for healthy and intelligent management of all energy resources.

1.9. The proposed programme must operate in harmony with the other Community policies. The desired objective is endorsed by the CoR. The harmful effects of energy consumption include pollution of food-producing areas and the surroundings in which we live. As a consequence, the health and well-being of people are at risk. Solving environmental issues leads to the emergence of new innovations and technologies

and boosts employment. This is of great importance for inhabitants, municipalities and regions. Many community policies, including the Intelligent Energy for Europe programme contribute to the EU's goal of sustainable development. The CoR recommends that more overt linkages between policies must be introduced. For instance, policies on the promotion of biofuels should be linked to the Steer programme.

1.10. The CoR is in favour of the 'key actions' expressly provided for in Article 3 of the proposed programme, combining several specific areas and/or relating to certain Community priorities, for example in remote and peripheral regions. The CoR calls on the Commission to consider whether targets for the consumption of renewable energies should be agreed for each programme. Targets could provide an effective measure of the contribution the programmes are making to meeting the EU's goal of 15 % of total energy consumption to be renewable by 2010. Targets are an important mechanism to demonstrate the commitment of the EU to boosting the use of renewable energy in the light of the failure of the World Summit to agree such targets.

1.11. The CoR takes the view that local and regional authorities play a very important part in these key actions. As they are closest to the citizens, they will be able to serve as an example in the practical achievement of the objectives laid down for the proposed programme.

1.12. The Commission proposes to make an annual assessment of progress with the multiannual programme. The CoR endorses this initiative, as it will be the ideal way of recognising the imperfections in the system and adapting the necessary measures to achieve the desired results.

Brussels, 20 November 2002.

*The President
of the Committee of the Regions*
Albert BORE

Resolution of the Committee of the Regions 'In preparation for the Copenhagen European Council'

(2003/C 73/12)

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 its Commission for Constitutional Affairs and European Governance to draw up a resolution 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 its draft resolution (CdR 123/2002 rev.) adopted on 4 October 2002 by the Commission for Constitutional Affairs and European Governance (rapporteur: Mr Fons Hertog (NL-ELDR), Mayor of Velsen);

whereas at the European summit in Copenhagen a number of important decisions must be taken on the future of the European integration process and two issues are of central importance: enlargement and institutional reform of the European Union;

whereas the Committee of the Regions wishes to take the opportunity on behalf of European local and regional authorities to inform and advise the leaders of government on the above issues in this resolution,

adopted the following resolution by a unanimous vote at its 47th plenary session of 20 and 21 November 2002 (meeting of 21 November).

1. Institutional reform

The Committee of the Regions

1.1. expects reform of the European Union to bring the European institutions closer to citizens, to make citizens identify more with the process of European integration and feel closely involved with the European Union, but without having to renounce their national identity and regional and local diversity;

1.2. stresses that democratic legitimacy is not solely a question of changing structures and procedures, but just as much a question of political culture and attitudes. Only if citizens identify with the European integration process will the democratic legitimacy of the EU really be guaranteed. The EU must be based on integration of people, not just of institutions;

1.3. believes that where the overall objective is to bring Europe's ideals and actions more into line with the needs and expectations of European citizens, the Union must enhance the role of local and regional democracy; after all, local authorities are for citizens the first and most important contact point within the social structure and system of democratically elected government. Of particular importance here are the tiers of government with legislative powers;

1.4. notes that institutional reform of the European Union is necessary for enlargement, but certainly also to increase citizens' confidence in the European Union;

1.5. believes that citizens' confidence in the European Union will increase if they experience a dynamic Union that takes decisions that are easy for them to understand;

1.6. also sees the inclusion of the Charter of Fundamental Rights in a constitutional treaty as an important step towards strengthening the bond with citizens. The rights that are the basis for shared values in the Member States must be anchored in the EU treaty; this applies above all for human rights and civil rights. In many Member States, economic and social rights fall within the remit of local and regional authorities and should therefore remain political objectives at European level and not be established in the treaty as basic rights;

1.7. notes that since subsidiarity — enshrined in Article 5 of the Treaty and therefore one of the most important principles of the Community — requires that decisions should be taken at the closest possible level to citizens, the institution that represents the closest existing administrative tier to the citizen is given a special role in overseeing and observing this principle;

1.8. notes that an increasing amount of European legislation applies to, and must be implemented by, decentralised authorities;

1.9. urges the Member States and the applicant countries to involve those authorities in the policy-making process for new legislation and in the evaluation of existing legislation;

1.10. draws the attention of the Member States and the applicant countries to the crucial importance of national government informing decentralised authorities about the implications of European legislation for them and involving them therein;

1.11. reiterates the importance of strengthening the Committee of the Regions in the decision-making process and increasing the involvement of decentralised authorities in that process at European level, in accordance with the proposals made by the European Commission in its White Paper on Governance;

1.12. suggests that the role of the Committee of the Regions could be enhanced by giving it a right of veto over issues on which it must be consulted under the Treaty, so that differences of opinion between the Council, the Commission, the Parliament and the Committee can be settled within a three- or six-month period;

1.13. must be allowed to appeal to the Court of Justice to have Community legislation that has not been referred to it, in breach of the referral obligation, declared invalid;

1.14. proposes that if the Council, Commission or European Parliament ignore an opinion issued by the Committee they should have to provide an explicit reason;

1.15. asks the leaders of government to notify their representatives in the Convention of the above points, so that the Convention can already take account of them in its work;

1.16. proposes that the Committee of the Regions be granted the right to submit written and oral questions to the European Commission;

1.17. sets considerable store by the Convention's work and assumes that its recommendations will represent a substantial part of the subsequent Intergovernmental Conference, expresses its concern in this respect on the decision not to set up a local and regional authorities working group, and notes that

the documents that have been submitted so far in the framework of the Convention contain hardly any recognition — or none at all — of the role of local and regional authorities in the structures of the European Union.

2. Enlargement

The Committee of the Regions

2.1. considers that preparations for enlargement will be the most important issue in 2003. The Committee of the Regions supports the European Commission's initiatives. However, it is very important that attention be paid to strengthening government at local and regional level. From this perspective, too, it is important that local and regional authorities in the applicant countries should be involved in preparations for accession and that they thus become aware of the implications of accession to the Union at local and regional level;

2.2. believes lack of information and discussion to be the perfect breeding-ground for fear of the unknown and xenophobia. A climate of fear and mistrust could be fateful for enlargement. The Committee of the Regions therefore thinks it is very important that citizens in the Member States should be well informed;

2.3. notes that enlargement will also affect the Union's spending policy, including spending on the Structural Funds. The Committee believes that the ceiling fixed in Berlin on spending for the period up to and including 2006 must be maintained. At the same time, the Committee thinks that the financial framework agreed in Berlin must be adapted to the enlargement situation, on the assumption that ten new Member States will soon be joining the Community;

2.4. believes it very important to consider carefully whether the adjustment of this financial framework has too many negative implications for the regions, both in the current and in the future Member States;

2.5. is very aware of the need for further reform of the Common Agricultural Policy, taking into account the role of the agricultural sector as an economic pillar of the countryside and of the factors farmers in areas with natural problems have to contend with, but at the same time endeavouring to replace current agricultural methods with sustainable and environment-friendly approaches;

2.6. is aware that the policy to strengthen economic, social and territorial cohesion contributes to the success of the European integration process and that the accession of the applicant countries will cause development disparities within the Union to widen to an unprecedented extent, so that the Union will have to work very hard to close the development gap of the new Member States, without neglecting the needs of the current Member States whose development lags behind;

2.7. therefore points out that if the objectives or procedures for structural aid are adjusted or tightened up, it is necessary not just to consider the situation in the applicant countries but also to look at the structural problems in the current Member States, including renewal of the countryside and the problems of urban areas;

2.8. points to the importance of achieving more decentralisation of regional government, with the aim of enhancing at local and regional level the role of the partnership principle, i.e. cooperation between the different tiers of government and social players. In this connection it notes that partnerships at local and regional level and with local and regional stake-

holders are of crucial importance to the success of regional development strategies;

2.9. points out again finally that cross-border, interterritorial and transnational cooperation between local and regional authorities of the existing Member States, the applicant countries and third countries is very important for shaping further integration and enhancing economic cohesion;

2.10. asks its President to present this resolution to the Union presidency, the members of the European Council, the Presidents of the European Parliament and the European Commission and the Chairman of the European Convention.

Brussels, 21 November 2002.

*The President
of the Committee of the Regions*
Albert BORE

Opinion of the Committee of the Regions on the ‘Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on “An information and communication strategy for the European Union”’

(2003/C 73/13)

THE COMMITTEE OF THE REGIONS,

having regard to the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on an information and communication strategy for the European Union — COM(2002) 350 final;

having regard to the decision of the European Commission of 2 July 2002, under the first paragraph of Article 265 of the Treaty establishing the European Community, to consult the Committee on the subject;

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 its Commission for Constitutional Affairs and European Governance to draw up an opinion on the subject;

having regard to the Protocol governing arrangements for cooperation between the European Commission and the Committee of the Regions, signed by their respective presidents on 20 September 2001 (DI CdR 81/2001 rev.);

having regard to the Communication from the Commission on A new framework for cooperation on activities concerning the information and communication policy of the European Union (COM(2001) 354 final);

having regard to the resolution of the European Parliament of 13 March 2002 on the Communication from the Commission on a new framework for cooperation on activities concerning the information and communication policy of the European Union (C5-0465);

having regard to its opinion of 13 March 2002 on the White Paper on European governance and the Communication on a new framework for cooperation on activities concerning the information and communication policy of the European Union (CdR 103/2001 fin) ⁽¹⁾;

having regard to its draft opinion (CdR 124/2002 rev.) adopted on 4 October 2002 by the Commission for Constitutional Affairs and European Governance (rapporteur: Mrs du Granrut (F-EPP), member of the Picardy Regional Council);

whereas surveys and studies reveal the alarming lack of public knowledge about the European Union;

whereas this lack of awareness cannot be allowed to continue at a time when EU enlargement is imminent and the Convention on the future of the Union is likely to make proposals for institutional reform;

whereas the European Union's legitimacy will only be consolidated when its citizens support its policies;

whereas the information measures thus far implemented by the European institutions have failed to achieve the expected results;

whereas an active EU information policy, conveying a shared message and creating a specific image for the Union, must be set in motion as a matter of urgency;

whereas such a policy requires a innovative strategy in terms of coordination, issues to be broached, techniques to be used and media to be harnessed;

whereas the primary task of this information and communication policy is to serve citizens, and must make them aware of the European dimension of their citizenship,

⁽¹⁾ OJ C 192, 12.8.2002, p. 24.

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

1. The Committee of the Regions' views

1.1. *General comments on communication and information in the European Union*

The Committee of the Regions

1.1.1. welcomes the work undertaken by the European Commission in proposing a coherent and comprehensive EU information and communication strategy, intended to provide complete, objective and reliable information about the EU, in order to enable citizens to have a well-considered opinion;

1.1.2. supports the principles underpinning the communication (henceforth referred to as 'the report'), to the effect that implementing this strategy is a prerequisite for successful EU policies, and that a new culture of communication, based on citizens' and not only the institutions' needs, must be fostered;

1.1.3. also embraces the objectives set out in the report: to create an enhanced image of a democratic, responsible Union which enjoys legitimacy in the eyes of its 500 million citizens and is conscious of its obligations in the world;

1.1.4. is aware of the scale of the task facing it, and wishes to contribute to its successful accomplishment by means of a number of comments and suggestions. In order to give a solid basis to its contribution to the European Commission's work towards an information and communication strategy for the European Union, the CoR has examined the nature and role of communication in relation to information;

1.1.5. believes that communication is not the same thing as information, but cannot be separated from it, providing both its end result and underlying rationale. Information offers knowledge, while communication establishes a human link with the person to whom the message is addressed. A definition of 'communication' should include 'dialogue', as this implies listening to the citizen as well;

1.1.6. considers that to be effective, communication must always follow a number of working rules:

- communication must take account of the socio-cultural context of the message, and the way the citizen perceives things, which applies equally whether the message is commercial or political;

- communication must seek to forge a positive relationship with the citizen: he or she must feel that the message concerns them personally and want to extract the information it contains. He or she must want to know more, or to talk about it. Communication seeks a response from its targets;

- communication must provide reference points to understand message: in this way, it makes sense of information. In this particular case, it must make the existence and workings of the European Union intelligible and credible;

- lastly, communication requires straightforward, relevant messages: it is therefore a key measure of the validity of the decision giving rise to the message. A decision which cannot be communicated is not a good one. For this reason, communication cannot take a back seat, it is part and parcel of the institutional decision-making process.

The Committee of the Regions has sought to bring these basic considerations to bear on the issue of EU information and communication, and they have guided its comments and proposals.

1.2. *Comments on the Commission's proposals for an information and communication strategy for the European Union*

The Committee of the Regions

1.2.1. recognises the complexity of the Union's present situation ahead of enlargement and against a backdrop of economic globalisation, while the public is aware of its lack of knowledge of the Union's missions and workings. It notes, however, that Eurobarometer polls point to potentially positive public expectations of the Union, in very practical areas of daily life, economic development, solidarity, environmental protection and the Union's action around the world. A real aspiration exists to see Europe play a major role in world affairs. These expectations represent a definite asset in bringing forward a Union information and communication policy based on dialogue with citizens and their capacity to join the public debate. These expectations must be met urgently for three reasons: falling voter turn-out in European elections, imminent enlargement, and the institutional reform currently in progress, the next stage in which will be the forthcoming publication of the outcome of the Convention's work;

1.2.2. trusts that the Union can devise and disseminate appropriate, targeted messages and introduce a partnership between the EU institutions and its Member States, but warns the Commission that in order to retain credibility, any message must be clear and reflect the straightforwardness of the decision-making processes which have produced it. In other words, the sharing of responsibilities between Union institutions, the current and future Member States, and their regional and local authorities must be accompanied by a determined effort to simplify Community decision-making processes and make them more understandable, in order to make information and communication activity more effective and implemented more consistently across all the institutions. The urgent specific need to address the issue of EU communication is therefore combined with the urgent structural need to streamline the way the institutions operate;

1.2.3. believes that the report is right to argue that genuine communication by the European Union cannot be reduced to the mere provision of information; rather, it must convey a meaning, facilitate comprehension, set both action and policy in a real context, and prompt constructive dialogue with public opinion in the Member States, as set out in the reference framework described in point 1. The report does, however, lay the main emphasis on the necessary familiarity with of its institutional structures and how they work. The report thus moves on from how to convey an idea/project, such as the need for European unification as a new force for each of its citizens, to the difficult and thankless task of explaining its institutions and their missions. If better communication is to be achieved, this explanation should, in future, coincide with a simplification of these institutions. If the European Union wants to present itself as a form of added value able to meet the challenges of enlargement, economic and monetary policy and Europe's crucial place in the process of globalisation, then it must first of all win over its citizens by offering an encouraging view of its work to help them realise their individual potential, gaining their support and mobilising their energies to take part in the public debate;

1.2.4. regrets that the report, which underlines the need for a fresh approach to information and communication, seemingly fails to draw all the appropriate conclusions. It mentions the need to formulate and disseminate messages geared to and focused on its priority issues, and to develop a genuine teaching function in relation to its role and tasks. This information- rather than communication-oriented view might

be judged as reductive when viewed against the desire for dialogue and a response to practical public concerns, and the calls for more consensus-driven Union governance which takes greater account of citizens' identity. A further aspect of this fresh approach relates to the role of the Member States, who would be actively involved in shaping and implementing the communication strategy;

1.2.5. is convinced that upholding the principle of subsidiarity does not mean that the Union must rely exclusively on national networks to convey its message. In order to enjoy a legitimate presence in the eyes of its citizens, the Union must have a specific line of communication, channelled through its own networks, in coordination with national and regional networks. To implement the communication strategy successfully, therefore, it is considered vital to step up cooperation between the European institutions and European regional and local authorities along the lines of a closer, equal partnership. Thus, the aim must be to coordinate the schemes and initiatives with national, regional and local-level agencies in the Member States. This means in particular working together to develop appropriate measures, and more straightforward funding arrangements by the Commission representations;

1.2.6. considers that if, as the report says, it is essential for the Union to build up a fund of messages using a common reference framework and with a common thread, then those put forward are too closely bound up with institutional concerns to meet public expectations and establish the dialogue called for by the report;

1.2.7. notes that opinion polls on individual Europeans' dominant values reveal an increasingly personalised approach, in the sense of the ability of each individual to exercise choices regarding their personal fulfilment in the family, at work and in leisure activities, and a receptive attitude towards the values of solidarity and security: in other words, a desire to live in an area of freedom, justice and tolerance. In order to respond to this personalisation, political institutions have to initiate public debate and provide the tools for individuals to make their choices. They must demonstrate their attachment to serving citizens and their constant concern to represent their interests and diversity of identities, at both national and regional level. In order to satisfy the values of solidarity and security, the Union must take the Charter of fundamental rights as its starting-point, and emphasise its strength as a force for balance on the world scene. This offers an opportunity for the European Union to show itself as the only political structure able to achieve such objectives. This area for action, and for communication, needs to be developed further;

1.2.8. draws the attention of the Commission to three crucial questions which must be given due consideration in the report:

- while enlargement is frequently referred to in terms of the need for it and its legitimacy, it does not figure adequately in the issues surrounding the future of Europe and the political and institutional measures that will be necessary. This is also one of the missions of the Convention on the future of the European Union;
- more generally, although the Convention on the future of the European Union is a major event from the communication point of view, in terms of its membership, working methods and expected proposals, it does not figure prominently enough in the declared strategy;
- lastly, on an internal level, the direct and indirect added value provided by the Structural Funds for European citizens as a whole has not been harnessed as it might be, even if the criteria for using these funds, together with those of the Common Agricultural Policy, should result in radical reforms in the near future;

1.2.9. considers that once the priority issues and strategy have been defined by the Interinstitutional Group on Information (IGI), the question then arises of which instruments to use in implementing the information and communication programme, so as ensure it has the greatest possible impact on an 'informed' audience and widest possible influence on public opinion in general. The Commission has not overlooked this matter, but its reply or, rather, replies, which take account of earlier programmes and political and institutional constraints, would benefit from being bolder. The Prince programme, for example, together with the 'Citizens First' project and 'Building Europe Together', should be seen as test beds for a more ambitious strategy and projects. Under the proposed arrangements, political responsibility would lie with the IGI and operational responsibility with the Commission. However, it seems that the Council's information group, together with the relevant committees of the European Parliament, are also to be involved in defining the communication strategy for each topic, which may make putting the IGI-defined strategy into practice a complicated matter;

1.2.10. recalls, furthermore, that it is ready and willing to bring its more refined and precise knowledge of public needs and expectations to bear in order to help the IGI define topics and strategy;

1.2.11. judges that, as the report says, the efficacy of the channels and networks to be used remains to be shown. Thought should be given to improving them, and to finding new ways of forging fresh links with the Union's citizens;

1.2.12. regrets that regional and local authorities, as well as EICs (Euro Info Centres), EDCs (European Documentation Centres), the 'Europe Houses' and the representations and delegations are not mentioned as being among these channels, as they have an incomparable grassroots capacity for information and communication, and enjoy public trust which is extended to the messages they transmit, and could facilitate the desired dialogue with citizens;

1.2.13. also regrets that there is very little mention of secondary schools, vocational training and universities as fundamental ways of reaching young people. The Committee agrees with the Commission that if the new strategy is to be implemented effectively, it is crucial that the work be carried out as close to the target groups as possible: since young people are a key target group for communication, it is particularly important to establish direct contact with educational establishments at every stage of the new strategy (design, decision and implementation), and not only as links at the final phase;

1.2.14. considers, lastly, that the role of the media — whether conventional: press, radio and TV, or new: Internet, websites, etc. — is not sufficiently mapped out. The way they are to be used should be specified by the relevant technical bodies. The Committee recalls that the opportunities for direct dialogue between the Union and its citizens, particularly young people, provided by the new communication technologies should be fully exploited.

2. Recommendations of the Committee of the Regions

The Committee of the Regions

2.1. is aware of the constraints on the European Union's information and communication strategy. Without overlooking them, its proposals are intended to meet the demands of dynamism and synergy identified in the report and to put the strategy on a more solid footing, giving it greater operational efficiency. The Committee is convinced this is an urgent, important need for the political future of the European Union.

2.2. Taking stock

2.2.1. notes that opinion polls and studies reveal present and future EU citizens' disillusion with politics and lack of awareness of the reality of the Union, together with their positive expectations of it. These expectations can be met through the Union's political actions: the successful introduction of the euro is an encouraging example of a political initiative in response to an economic problem;

2.2.2. considers that the Union should explain to its citizens that its political initiatives serve their economic, social and cultural interests, as well as those relating to their internal security and global ambitions;

2.2.3. suggests that the Commission request Eurobarometer to provide a concise document, based on all available studies and their own research, on how citizens see the Union and what they expect of its work. This document could provide a platform for further discussion and options for the IGI;

2.2.4. asks, in any case, to take part, as a full member, in the IGI's discussions on defining a strategy, and to be associated with the implementation of the information and communication programme, so that the regional and local authorities it represents can be actively involved. The Committee considers that regional and local communication is the only level at which a rapid response to information can be secured and individual energies mobilised to ensure the programme's democratic effect.

2.3. The Committee of the Regions has focused on two essential aspects of the strategy: topics for communication, and targets.

2.3.1. with regard to the topics for communication, fully supports the principle of devising a central thread to transmit coherent messages;

2.3.2. is convinced that the European Union represents added value. This is the central thread around which the following fundamental ideas, identified on the basis of European citizens' dominant values, should be woven:

- the search for a balance between economic activity and personal security;
- respect for cultural, ethnic and religious diversity;
- the aspiration to play a political role on a global scale;
- preservation of peace both within and beyond the Union's borders.

2.3.3. considers that these four dimensions to the Union's added value should serve as a basis for developing for the priority topics of Union communication;

2.3.4. proposes a list of topics which it believes to match more closely public expectations. It recalls that EU communication on these topics will provide numerous opportunities for putting the above-mentioned values into real practice, and that it should shun abstract, unproductive declarations of principle, instead providing practical examples boosting the credibility and legitimacy of the Union's work in the eyes of its citizens. Their support for Union projects is at stake.

a) Topics to demonstrate that the Union's existing work is already at the service of its citizens:

- the present and future role of the Structural Funds and the CAP;
- the benefits flowing from the introduction of the euro in the relevant countries;
- the effects of competition policy on consumer protection;
- free movement of people;
- environmental protection and sustainable development.

b) Topics charting future paths and goals:

- enlargement, emphasising both the efforts made by the applicant countries and the internal security measures which the Union will need to take;
- how the Union's future ties in with the work of the European Convention, possibly leading to a Union constitution;
- the Union's political evolution through institutional reform and application of its powers.

2.3.5. recalls that the information and communication strategy will fail to achieve its aims if regional and local elected representatives and their partners are not seen as vital links, not least on the basis of the excellent results achieved in cases where this partnership is already operative (as for instance in the case of the IPE and Carrefour networks, the Euro Info Centres, European Document Centres, 'Europe Houses', etc.), and if they are not granted the necessary margin of freedom to adjust messages for a public with which they are in daily touch, and which has confidence in them, having elected them. Local elected representatives are the 'all-rounders' of civil society. They are familiar with all its sectors and all its needs. As pointed out above, they also possess the ability to gather citizens' responses to messages and to launch direct dialogue with them.

2.4. *Operating methods*

2.4.1. approves the Union's willingness to take on a leadership role in guiding the entire process, thereby showing its dynamic, practical 'face' to all European citizens. It understands the Commission's concern to share the responsibility for this with the other Union institutions and to comply with the subsidiarity principle by calling upon the Member State to cooperate in this project of great importance to its future;

2.4.2. feels it must, however, make a number of suggestions arising from the exceptional nature of the future strategy, and from the impact which the topics and messages to be communicated may have in the current situation:

- the approach and operation of the Union's existing channels in the Member States and applicant countries should be overhauled;
- involvement of the Parliament and Council information services in shaping strategy, topics and messages should be matched by their acceptance of coordinated implementation in full synergy with the Union;
- cooperation with national information services, together with those of the Union institutions, as communication links must be clearly specified in a memorandum of understanding, as urged by the report. There must be no risk of blurring Union messages, although they must be tailored to fit the sensibilities of national populations;

2.4.3. is prepared to subscribe to such a memorandum, believing that it is essential to mobilise the local and regional elected representatives of the Member States and applicant countries, both to channel more personalised and hence more effective information downwards, and to channel communication from the grassroots upwards to the Union. It proposes, for example, that under the Protocol of Cooperation with the Commission, a list be made of events which could be organised jointly on topics having a direct impact on citizens' daily lives and falling fully or partly within the remit of regional and local authorities;

2.4.4. believes that in addition to the individuals or groups to be mobilised as channels in the Member States, all members of the European institutions, such as the Member States themselves, regions, cities and local authorities, and including the members of the European Convention, the Committee of the Regions and the European Economic and Social Committee, should be mobilised and equipped with a 'roadmap' for their support for/participation in information and communication campaigns;

2.4.5. suggests that the traditional media be brought in at an early stage of the strategy design process. A panel of press and broadcast journalists could, for example, be formed and asked to evaluate the clarity, relevance and newsworthiness of communication projects. The media would, of course, also be a communication target within the overall scheme. In this respect, the Committee argues that the Union should aim at a broader audience than specialist European affairs journalists. Special efforts will have to be made vis-à-vis national and regional broadcast media, since they now represent the main source of knowledge for a large sector (covering all age groups) of the general public in Europe. Partnership agreements should be sought. Publications should also be re-designed, particularly with regard to language and distribution aspects;

2.4.6. turning to the new technologies, considers that the Union should promote existing sites and create, or check, links with other important European, national and regional sites.

2.5. *Overall direction*

2.5.1. acknowledges the need for messages to be tailored to the relevant audiences, and consequently for the 'channels' to enjoy a degree of freedom to adjust them, but emphasises that once the strategy has been decided, the overall direction of information and communication operations should be left to the European Commission, which should also undertake regular evaluations and brief the IGI, the Union institutions, the Member States and the applicant countries on the results;

2.5.2. considers that European citizens must be able to identify the Union as the source of, and responsible for, the information provided, and as a partner if they wish to enter into dialogue.

2.6. *Means*

2.6.1. draws attention to the financial contribution the local and regional authorities and their partners already make towards the European Union's information policy, by earmarking their own considerable resources for the running of the Union's official information networks;

2.6.2. considers that given its priority nature, the information and communication strategy must be provided with an adequate budget;

2.6.3. emphasises that its proposals are made under the terms of the protocol governing arrangements for cooperation with the European Commission, and more specifically the section on information and communication policy at grassroots level, and that the sole purpose of these proposals is to contribute to a successful Union information and communication strategy. They are guided by the fundamental changes presently occurring in the Union, at a time when it must unavoidably and definitively make good its deficit of transparency and democracy in relation to its citizens. For this reason, the Committee has striven to analyse and recall the nature and rules of an information and communication strategy, the better to put it at the service of citizens and the relationship that must be built up with the European Union. This is the common thread and ambition of its proposals;

2.7. in conclusion, highlights the following points:

2.7.1. a strategic approach: this must follow the rules governing any communication work and take careful account of the way citizen-consumers normally perceive things, create a positive relationship with them, provide them with reference points to help them understand messages and put forward their own views and, lastly, accept that this approach be built into the decision-making process;

2.7.2. communication topics: the unifying link must be the added value brought by the Union, underpinned by the dominant values of European citizens and with practical examples likely to gain public support. The Committee of the Regions suggests a number of suitable topics for demonstrating that the Union's present work is already serving the interests of its citizens, and stresses enlargement and the role of the European Convention and the impact of its results on future paths and goals;

2.7.3. synergy with the European institutions' administrations and the Member States and applicant countries, as well as with regional and local authorities and their partners: the present and future EU countries are certainly vital links in transmitting and adapting messages. They must however conform to the objective of the strategy: to legitimise the reality of the Union and establish a direct dialogue with citizens;

2.7.4. involvement of regional and local authorities and their partners: the confidence placed in them by the Union will be reflected in a better knowledge of public expectations, better targeted choice of subject matter, effective transmission of its messages and, in return, feedback from citizens which may well initiate the desired dialogue;

2.7.5. reorganisation of the Union's existing channels, including publications, in both their approach and their operation. Raising the awareness of the traditional media and mobilising a wider sector than specialist journalists will produce real media coverage for the proposed information and communication strategy, as well as more rational and open use of the new communication technologies;

2.7.6. greater focus on developments now and in the immediate future, especially the institutional proposals of the Convention on the future of the European Union;

2.7.7. The issues at stake in recasting the European Union's information and communication policy, as proposed by the Commission, to reflect the Laeken Declaration. The Committee urges that its comments and proposals be taken into consideration, as it is convinced that the regional and local authorities that it represents are an essential factor in both devising a dynamic information and communication strategy which meets people's expectations, and establishing a democratic dialogue between the Union and its citizens and winning their support for the political work of the Union's institutions.

Brussels, 21 November 2002.

*The President
of the Committee of the Regions*
Albert BORE

Opinion of the Committee of the Regions on:

- **'The Third Report from the Commission on Citizenship of the Union', and**
- **'A Report from the Commission to the European Parliament and the Council on the application of Directive 94/80/EC on the right to vote and to stand as a candidate in municipal elections'**

(2003/C 73/14)

THE COMMITTEE OF THE REGIONS,

having regard to the decision of its Bureau of 12 March 2002, 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 Third report on citizenship of the Union (COM(2001) 506 final) and the report from the Commission to the European Parliament and the Council on the application of Directive 94/80/EC on the right to vote and to stand as a candidate in municipal elections (COM(2002) 260 final);

having regard to the text of the Charter of Fundamental Rights of the European Union proclaimed by the European Council at Nice on 7 December 2000;

having regard to the proposal adopted by the European Commission for a Directive on the Right of Citizens of the Union and their family members to move and reside freely within the territory of the Member States (COM(2001) 257 final);

having regard to the European Parliament's report on the third Commission report on citizenship of the Union (C5-0656/2001);

having regard to the report of the European Parliament on the proposal for a Directive on the Right of Citizens of the Union and their family members to move and reside freely within the territory of the Member States (Report reference not yet available);

having regard to its opinion of 16 February 2000 on the Process of drawing up a Charter of Fundamental Rights of the European Union (CdR 327/1999 fin) ⁽¹⁾, its resolutions of 20 September on the Charter of Fundamental Rights of the European Union (CdR 140/2000 fin) ⁽²⁾ and of 13 December 2000 on The approval of the Charter of Fundamental Rights of the European Union (CdR 381/2000 fin) ⁽³⁾;

having regard to its opinion of 13 March 2002 on the proposal for a European Parliament and Council Directive on the Right of Citizens of the Union and their family members to move and reside freely within the territory of the Member States (CdR 287/2001 fin) ⁽⁴⁾;

having regard to its draft opinion (CdR 121/2002 rev.) adopted on 4 October 2002 by the Commission for Constitutional Affairs and European Governance (rapporteur: Mr Vesey (IRL-EA), Member of Cavan County Council and the Border Regional Authority),

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

⁽¹⁾ OJ C 156, 6.6.2000, p. 1.

⁽²⁾ OJ C 22, 24.1.2001, p. 1.

⁽³⁾ OJ C 144, 16.5.2001, p. 42.

⁽⁴⁾ OJ C 192, 12.8.2002, p. 17.

THE COMMITTEE OF THE REGIONS' VIEWS

1. General remarks

The Committee of the Regions

1.1. Welcomes the Third Report from the Commission on Citizenship of the Union and the Report from the Commission to the European Parliament and the Council on the application of Directive 94/80/EC on the Right to Vote and Stand as a Candidate in Municipal Elections.

1.2. Agrees that the third report should, in addition to covering the years 1997, 1998, 1999, also deal with the proclamation of the Charter of Fundamental Rights, and the adoption by the Commission of the proposal for a Directive, on the right of Citizens of the Union and their family members to move and reside freely within the territory of the Member States.

1.3. Agrees that citizenship of the Union shall compliment and not replace national citizenship and that nationality of a Member State is the only way to acquire citizenship of the Union.

1.4. Underlines that European citizenship is an essential part of the debate on the future of Europe that is currently underway, in particular within the European Convention, as highlighted in the Laeken declaration.

1.5. Welcomes the establishment of the multiannual Community programme, Daphne, which fights all forms of violence against children, young persons and women. The participation of local and regional authorities in the Daphne programme will ensure that the programme will assist those most at risk.

2. Freedom of movement

2.1. Welcomes the proposed Directive as a contribution to European citizenship.

2.2. Urges the European Commission to tackle the outstanding issues affecting the rights of citizens in the Directive as outlined in detail in the recommendations of this opinion.

2.3. Welcomes the finalization of the legislation transposing the Directive in the Member States and shares the concerns of the Commission in relation to the long drawn-out infringement proceedings with consequent effects on the Union Citizens.

2.4. Urges that in future, where problems arise, that every effort be made to resolve the problems as quickly as possible in order that the non-national citizens of the Union are not deprived of their rights.

2.5. Agrees with the Commission on the need to improve the provision of information to the public about the extent of their rights in the area of free movement.

2.6. Supports the recommendations of the European Parliament and of the Council on mobility within the Community for students, persons undergoing training, young volunteers, teachers and trainers adopted on 25 June 2001 and of the Resolution from the Council on an Action Plan for mobility on 14 December 2000.

2.7. Urges the European Parliament and the EU Council to encourage, facilitate and support mobility for the purposes of education, training and research and to remove remaining obstacles to mobility as quickly as possible, in particular those regarding the recognition of the equivalence of educational qualifications.

2.8. Supports the call on Member States to devise strategies to incorporate the aspect of transnational mobility into their National Policies for the groups targeted by the recommendation.

3. Consular protection

3.1. Welcomes the fact that, in practice, all of the Member States have taken steps to ensure that their diplomat and consular representatives afford appropriate protection and assistance to citizens of the Union who have no representative in a third country.

3.2. Urges all Member States to incorporate in their National Legal Order, without further delay, the decision on the practical arrangements to be made by consular officials Decision 96/409/CFSP on the rules for issuing emergency travel documents; and particularly since the right is a fundamental right under the Charter of Fundamental Rights of the Union.

4. Right of petition and the European Ombudsman

4.1. Notes that the two reports herein discussed conclude that the Union Citizens are not aware of their rights or of the powers of the Union or its institutions. This lack of knowledge which results from communication problems and the failure of the relevant available information to reach the EU Citizen, is the reason for the high proportion of petitions to the EU Parliament and complaints to the Ombudsman being declared inadmissible. These matters are addressed in this opinion.

5. Information and communication

5.1. Stresses the need to promote EU citizenship within education policies, starting with primary levels firstly.

5.2. Welcomes the new Communication from the Commission on an information and communication strategy for the EU⁽¹⁾ and reiterates the need for further investment in EU-wide communication and information strategies to promote knowledge among citizens of their rights, especially EU citizenship. The burden to communicate information and prevent the spread of misinformation on the EU should be shared between the local, regional, national and EU levels of government.

6. The right to vote and to stand as a candidate in municipal elections

6.1. Stresses the necessity for all Member States to participate in the information gathering process to ensure that the position in the whole of the Union territory can be assessed and regrets if the local and regional level were not involved in this process.

6.2. Welcomes the report findings that the National Transposition measures have been completed in all Member States but calls for further reports on transposition to involve the CoR.

6.3. Welcomes the fact that the Commission, in assessing compliance of the National Transposition Measures with the Directive, found that the quality of the National Legislation satisfactory and the measures are in conformity with the requirements of the Directive. Urges that when cases of non-conformity have been opened, that early resolution is sought, and that all the relevant details are communicated to the other Member States for the information and guidance of the other Member States.

6.4. Supports the principles embodied by the Directive: non-harmonization of Electoral Law and the abolition of the Nationality requirement, freedom of choice to take part and equal access to electoral rights under the same conditions as nationals.

6.5. Agrees with the Commission that in assessing whether the provisions of the Directive are properly applied, account must be taken of the practical results of the provision of information and its effects on the participation of Union citizens in municipal elections.

6.6. Welcomes the fact that non-national EU citizens stand for election and have been elected.

6.7. Would suggest that lack of the availability of information to non-national EU citizens is only one of the reasons for low participation rate and other factors should be investigated viz. the day on which the poll is held, the opening hours of the polling station, other methods of voting other than attending at a polling station.

6.8. Welcomes the fact that no specific problems have arisen in the Member States as a result of the increase in the electorate.

7. The Committee of the Regions' recommendations

The Committee of the Regions

Free movement

7.1. Recommends that in relation to Chapter 1, Article 4 that the wording be amended in line with the Charter of Fundamental rights so as to make the list not exhaustive: 'Member States shall give effect to the provisions of this Directive without discrimination on grounds such as sex, race, colour, ethnic or social ...'

7.2. Recommends that the definition of 'family member' as in Article 2(2) paragraph b, will include unmarried partners who have a status equivalent to that of married partners in the Member State of origin.

7.3. Suggests that the provisions in the Directive be clarified to restrict the free movement and right of residence of those convicted of offences such as paedophilia, domestic violence and soccer hooliganism. In Chapter VI information on those persons who represent a threat to society must be communicated from the Member State of origin to the host Member State. Furthermore under Article 6(5), the requirement to report presence within at least 15 days should not apply in such cases, but rather report immediately on arrival in the host Member State.

7.4. Would like to see more discretion and greater flexibility being given to Member States in relation to the application of Articles 12 and 13 of the Directive to non-national EU citizens who are widowed, separated or divorced spouses of non-national EU citizens. The CoR feels that the current proposal [Art. 7.1(b)], is discriminatory on the grounds of income. Other factors, to be determined by the Member States, should be considered, such as (1) length of the time in the host member state, (2) Length of time solely dependent on the spouse, (3) Effects of break-up of family on other family, like students, (4) Disruption to family life. Would like to see provisions on the independent right of residence of third-country nationals in the event of the death of, or divorce from, an EU citizen brought into line with the relevant provisions in the proposed directive on the right to family reunification. An independent right of residence should only be granted in cases of particular hardship. Furthermore, the granting of an independent residence permit is at the discretion of the Member States.

⁽¹⁾ COM(2002) 350 final.

7.5. Suggests that the four-year continuous residency which qualifies a non-national EU citizen for permanent right of residence should be clearly defined, and should not include periods where that citizen was incarcerated on conviction for criminal activities.

Charter of Fundamental Rights

7.6. Urges Member States to abide by the objectives set out in the Charter of Fundamental Rights and reiterates its call to formally incorporate the Charter in the Treaties.

7.7. Suggests that the European Union and the Member States take appropriate measures to make the Charter of Fundamental Rights together with an explanatory note on the Charter readily available to every citizen free of charge.

EU citizenship

7.8. Suggests that in order to improve the awareness of the Union's Citizens of their rights and of the powers of the Union and its institutions, the following should be considered:

- Televised information campaigns.
- Incorporate the words 'European Union — Know your Rights' and phone number of Europe Direct Call Centre on all publicity hoardings for projects financed by the European Union.
- Information literature through schools and other educational institutions, all national, regional and local bodies, hospitals etc.
- Innovative direct marketing campaigns (logo on postmarks — Europe Direct Call Centre phone number).
- Details to be provided on Web Site — Europe Direct Call Centre.

7.9. Suggests that Member States in issuing passports, incorporate contact details of the European Direct Service.

7.10. Requests that the CoR is involved in future information campaigns on municipal elections to promote the rights of EU citizens and be more involved in the European Commission's information and communication policy. On the basis of the cooperation protocol between the Commission and the CoR, a way could be found to work together to ensure better communication with the citizens.

7.11. Recommends that the Commission establish a working group including representatives from the CoR to investigate how the concept of EU citizenship at national, regional and local levels is promoted in each Member State, and provide strategic guidelines on how the concept could be better disseminated.

Right to vote and stand as a candidate in municipal elections

7.12. Suggests that as a way of informing non-national EU citizens of their voting rights, the literature which the host state sends to non-national EU citizens eligible to vote should be in the official languages of the Community, where it is economic to do so. Furthermore all official correspondence with non-national EU citizens should include details of contact numbers, for information on their voting rights.

7.13. Recommends continuation of the initiative of testing electronic voting in cases of municipal elections.

7.14. Suggests, that where registration is in effect, the compilation of a single register and relevant supplements which include both national and non-national EU voters for use at all types of elections or polls, with a distinguishing mark, letter, or other symbol as determined by the Member State, opposite the name of non-national EU voters, indicating the various elections at which the person is eligible to vote. This in turn will facilitate the compilation of statistics on the registration of non-national EU citizens, without compromising rights to privacy.

7.15. Suggests that national, regional and local authorities be called on to play a more active roll in identifying and informing non-nationals of the procedure for registration and voting entitlements.

7.16. Recommends that Member States which do not have automatic entry onto the register, make provision, if such provision does not already exist, to facilitate application for and entry to the electoral register in cases where qualified voters have not been included in the original register. It will be a matter for each Member State to determine the provisions which are most suited to the Member State.

7.17. Recommends that Member States assist the elderly, disabled, students, employees and those who may not be in a position to exercise their right to vote at the polling station allocated to them on the day of the poll, by providing them with the facility to vote by other ways.

7.18. Recommends that this be developed as priority with a view towards 2003 as the European Year for the Disabled.

7.19. Suggests that the derogation mechanism will be of particular relevance in light of the proposed enlargement of the EU.

7.20. Recommends that following the accession of the next group of candidate countries and following their transposition into national law of the Directive and its application in

municipal elections, a further report on the application of the Directive 94/80/EC be compiled. This second report would be useful in the evaluation of trends following their accession.

7.21. Considers that in addition to the questionnaire, an independent working group should be established to see what action is being undertaken in Member States to promote registration and turnout of non-national EU citizens. In the spirit of the cooperation protocol with the European Commission, the CoR should be involved in all stages of the drawing-up of this report and in the working group.

Brussels, 21 November 2002.

The President

of the Committee of the Regions

Albert BORE

Opinion of the Committee of the Regions on 'The role of the regional and local authorities in European integration'

(2003/C 73/15)

THE COMMITTEE OF THE REGIONS,

having regard to the working document of the European Parliament's Committee on Constitutional Affairs on The role of the regional and local authorities in European integration (PE 313.402);

having regard to the decision of the European Parliament of 3 September 2002 to consult it on this matter, under the fourth paragraph of Article 265 of the Treaty establishing the European Community;

having regard to the decision of its Bureau of 2 July 2002 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 European Commission White Paper on European Governance (COM(2001) 428 final);

having regard to the European Parliament's report on the division of competences between the European Union and the Member States (A5-0133/2002);

having regard to the draft conclusions of 29 July 2002 of the European Convention working group on the principle of subsidiarity (WD09-WG1);

having regard to its preliminary contribution to the Convention of 4 July 2002 (CdR 127/2002 fin);

having regard to its opinion of 13 March 2002 on the White Paper on European Governance (CdR 103/2001 fin)⁽¹⁾;

⁽¹⁾ OJ C 192, 12.8.2002, p. 24.

having regard to its opinion of 13 March 2002 the Draft Report of the European Parliament on the division of powers between the European Union and the Member States (CdR 466/2001 fin) ⁽¹⁾;

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) ⁽²⁾;

having regard to its opinion of 14 November 2001 on the participation of regional government representatives in the work of the Council of the Union (CdR 431/2000 fin) ⁽³⁾;

having regard to its report of 20 September 2001 on proximity (CdR 436/2000 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) ⁽⁴⁾;

having regard to its opinion of 11 March 1999 on the principle of subsidiarity: Developing a genuine culture of subsidiarity. An appeal by the Committee of the Regions (CdR 302/98 fin) ⁽⁵⁾;

having regard to the position paper of June 2002 by the Council of European Municipalities and Regions (CEMR) on the Convention;

having regard to its draft opinion (CdR 237/2002 rev.) adopted on 11 October 2002 by the Commission for Constitutional Affairs and European Governance (rapporteur: Lord Tope (UK-ELDR), Member of the Greater London Authority and Councillor of the London Borough of Sutton;

whereas the President of the European Commission has recently stated that 'it is vital for the regions and local authorities to play a more active role. There needs to be better upstream participation in the EU decision-making process up to the conception stage. The Member States must involve the regions and local authorities in working out national positions within the Council. The Commission wants more organised dialogue with regional, urban and local actors.' ⁽⁶⁾,

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

1. The Committee of the Regions' views concerning the EP working document

General considerations

The Committee of the Regions

1.1. welcomes the European Parliament initiative in drawing up a report on the role of the regions and local authorities in European integration as a step forward in connection with the debate on the future architecture of Europe, which the CoR would like to develop further and strengthen.

1.2. stresses that the debate is about the role and rights of all spheres of sub Member State government, i.e. local and regional authorities, reflecting the breadth and diversity of arrangements across the Member States, as well as their representative bodies and associations.

1.3. by the same token, is surprised at the working document's lack of awareness of the regional dimension, in contrast to earlier Parliament documents, and the approach initiated by the European Commission's White Paper on governance, as reflected in the Laeken declaration, in which the heads of state and government referred to the need to devote particular attention to the regional dimension in order to achieve better distribution and definition of competence in the EU.

1.4. shares the EP rapporteur's view that the process of integration should be taken forward, not weakened, in an enlarged Europe and that the Community method needs to be reinforced, not put in danger; emphasises that a fuller involvement of all spheres of governance involved in delivering EU policies and legislation is therefore a positive and necessary contribution towards this objective and will bolster the democratic legitimacy of the Union. Moreover, early consultation of these legitimate interests will identify and possibly resolve potential problems at an early stage and thereby facilitate more effective decisions and implementation of EU policy and legislation.

⁽¹⁾ OJ C 192, 12.8.2002, p. 31.

⁽²⁾ OJ C 107, 3.5.2002, p. 36.

⁽³⁾ OJ C 107, 3.5.2002, p. 5.

⁽⁴⁾ OJ C 253, 12.9.2001, p. 25.

⁽⁵⁾ OJ C 198, 14.7.1999, p. 73.

⁽⁶⁾ President Prodi Speech 02/344, Bellagio 15 July 2002.

1.5. reiterates its call for the Union's shared principles to be extended to encompass the principles of local and regional self-government, whilst respecting the internal constitutional provisions of the Member States.

1.6. shares the view of the EP rapporteur therefore, that the principle of subsidiarity should not govern solely relations between the Union and its Member State governments, but also other spheres of governance and refers to the declaration on subsidiarity by Germany, Austria and Belgium noted by the Amsterdam intergovernmental conference.

1.7. considers therefore that strengthening the democratic legitimacy of the European Union inevitably means increasing the participation of local and regional authorities in the decision-making processes and increasing their participation in the preparation and implementation of European policies. Contrary to comments in the EP working paper, it does not believe that this will necessarily overburden or complicate the decision-making process. Any increased complexity would be largely compensated for by greater legitimacy and public acceptance and efficiency gains in the implementation (as any technical obstacles will have been identified and resolved).

1.8. welcomes therefore the proposals of the European Commission concerning greater involvement of local and regional authorities. However, the CoR underlines that this greater involvement must be two-fold: on the one hand, systematic consultation of local and regional authorities and their associations in the pre-legislative stage, and on the other hand, a strengthened role for the Committee of the Regions in the political decision-making process.

Subsidiarity

The Committee of the Regions

1.9. reiterates its view that the principle of subsidiarity is a political principle which is constitutional in nature, and that its incorporation in the Treaties obliges Member States and the relevant institutions to choose the most effective and proportionate level for decision-making. The principle of subsidiarity must therefore guarantee both regional rights and local self-governance, in keeping with the law of each Member State, given also that in many Member States local authorities share administrative responsibility for Community-related matters. The Community should take action only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States or their constituent spheres of governance and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community.

1.10. considers that framework legislation and directives should be used more frequently in preference to the more detailed regulations, which should be used only when strictly necessary for the achievement of the objective.

1.11. considers that legislation is not the only means of acting in the public domain, nor always the most important one, therefore in many of the subject-matters of the European Union local and regional bodies have an important role to play irrespective of their limited involvement in legislative decision-making.

1.12. considers that despite the political and legal progress achieved since the subsidiarity principle was enshrined in the Maastricht Treaty and fleshed out in the Protocol to the Amsterdam Treaty on the implementation of the principles of subsidiarity and proportionality, it has not been fully implemented and has failed to have the expected impact on the functioning of the Union and to underpin the prerogatives and responsibilities of the Member States, regions and local authorities.

1.13. considers that the main provisions of the existing Protocol on subsidiarity should be made explicit in any new Treaty, including reference to both the Member States and, according to the competences reserved for them, their local and regional entities.

1.14. considers that the conclusions of the Convention on the principle of subsidiarity should examine the role and responsibilities of local and regional spheres of governance.

1.15. supports the proposal for the Convention to establish a specific working group on the role of the Member State's subnational authorities.

1.16. believes it appropriate that the CoR, as the EU body which represents the levels of government closest to ordinary citizens, should have a specific role in monitoring compliance with this principle and has repeatedly called for the Treaties to assign to it specifically the task of monitoring compliance with the subsidiarity principle.

1.17. calls for local and regional authorities to have the right to bring actions before the European Court of Justice, in the event of EU institutions infringing their prerogatives.

1.18. therefore expresses doubt about whether there needs to be a new surveillance body created for this purpose; if however such a body were to be created, would consider it important that local and regional government be represented.

1.19. considers that within each Member State, there should be a mechanism for reviewing the internal application of the subsidiarity principle.

Charter of Local Self-Government

The Committee of the Regions

1.20. considers that the application of the principle of subsidiarity guarantees the democratic foundation of the Union's institutions and the concept of European citizenship. At the same time, the subsidiarity principle should ensure that political decisions are taken at a closer level to the citizen, by means of local and regional self-government. The CoR considers that this dimension of the subsidiarity principle is best reflected the term 'proximity' and that the principle of proximity should therefore be added to the Union's 'governance' principles.

1.21. reiterates its call for the new constitutional framework of the European Union to incorporate the European Charter of Local Self-Government as part of the *acquis communautaire*, with a view to building a Union based on the principles of democracy and transparency.

1.22. restates its view that the principle of regional self-government must form an underlying principle of the Union, with respect for democracy and with a view to greater integration.

Charter of Fundamental Rights

The Committee of the Regions

1.23. regards the Charter of Fundamental Rights as a key contribution to European integration which makes it clear that the European Union is a community of values; advocates the incorporation of the Charter of Fundamental Rights into the Treaty.

EU competences

The Committee of the Regions

1.24. considers it necessary to clarify which tasks must and can be carried out jointly by a considerably enlarged Union. It should be made clear which European Union interests can only be acted on jointly, and the enlarged Union's tasks should be concentrated on those areas. However in certain areas, a transfer back of powers to the Member States — or an extension of European Union powers — cannot be excluded.

1.25. emphasises that many of the competences of the future European Union must remain shared competences: shared not only between the EU and national governments, but also — in line with the principle of subsidiarity and the principle of proximity — with regional and local government,

while respecting the provisions of the constitutions of the Member States. Further notes that the term 'competence' is not limited to a power to legislate, but includes other legal powers of action within the responsibility of each sphere of government.

1.26. calls for the tasks of the European Union to be set out clearly in the Treaty. However, the European Union should also continue to be able to react flexibly to the challenges that lie ahead; a clear distinction should be made between the exclusive, shared and supplementary powers of the European Union. As far as the powers enjoyed by the EU are concerned, the Treaty should enumerate and define the as yet largely unstructured courses of action which the Treaties provide for (regulation, harmonisation, mutual recognition, augmentation, promotion, co-ordination, implementation.) In this regard there should be particular effort to promote cross-border co-operation as a task and objective of the European Union.

1.27. reiterates that it opposes drawing up rigid and detailed lists of powers. However, the Union should give consideration to (and respect) the internal rules and organisation of the Member States regarding the distribution of competences.

Consultation

The Committee of the Regions

a) Consultation at the level of the European Union

1.28. in calling for the role of the regional and local authorities in the application of Union policies to be recognised, considers that they and their representative bodies should be consulted in those areas relevant to the powers they exercise in accordance with the internal organisation of their state.

1.29. in this context, welcomes the European Commission's commitment in the White Paper on European Governance to institute a systematic dialogue between European and national associations of local and regional government as well as regional and local authorities themselves, notably in the phase prior to the drawing-up of new policies likely to have an impact on the regional and local authorities or to affect their powers.

1.30. calls for the financial and administrative consequences of proposed Community legislation for sub Member State authorities responsible for its implementation to be made clear at the consultative stage and taken into account in the final decision.

b) Consultation of the Committee of the Regions

1.31. concerning the consultative function of the CoR itself, calls for:

- a mechanism to ensure that the failure to consult the CoR where this is mandatory, or the adoption of legislation falling within the CoR's area of responsibility in the absence of the CoR's opinion within the period laid down for that purpose should have legal consequences. In particular, the CoR must have the right to bring legal actions in defence of its prerogatives which would enable it to bring before the Court of Justice actions for abrogation of Community measures adopted without the mandatory consultation of the Committee being carried out;
- strengthening of its consultative function by requiring the institutions adopting a measure to justify failure to take account of the Committee's opinion. This requirement should extend to all areas in which consultation is mandatory;
- the list of subjects on which consultation of the Committee is mandatory be extended to all areas relating to the competences of local and regional authorities;
- consultation on the Annual Policy Strategy, and on information and communication.

c) Consultation within Member States

1.32. recalls that the White Paper on European Governance observed that Member State governments are not involving local and regional stakeholders appropriately in the preparation of their positions on EU policies.

1.33. considers that Member States' positions on European issues should be reached by means of increased dialogue and collaboration between the national, regional and local authorities and their representative associations, which would improve the democratic legitimacy of EU decision-taking, and recommends that such rights to information and participation be given a high level of guarantee.

The future of the Committee of the Regions

1.34. recalls that, under the EU Treaty, the CoR was established as the sole EU body representing 'regional and local bodies' of all the Member States in the EU decision-making process; the CoR should therefore reflect the diversity of local and regional governance in the individual Member States on an equitable basis.

1.35. reiterates that it cannot be a fully effective channel for the participation of the local and regional authorities in European integration as long as it remains relegated to its current status of an auxiliary, consultative body.

1.36. specifically, calls for:

- recognition of the CoR's status as an institution;
- power to bring actions before the Court of Justice in defence of its prerogatives and the subsidiarity principle;
- the right to address written and oral questions to the European Commission;
- a strengthening of the functions of the Committee going beyond its current purely consultative functions. The CoR should thus be granted the right to a 'suspensive veto' in some cases of mandatory consultation and where EU legislation has a financial impact on local and regional authorities;
- to be able to attend the dialogue between the Council, the European Parliament and the Commission in the framework of the co-decision procedure in cases of mandatory consultation provided for by the Treaty.

European and national associations of local and regional government

1.37. notes that with enlargement the Union will comprise about 250 regions and 100 000 local authorities. It is evident therefore that the EU cannot consult each and every stakeholder directly and that there is an ever increasing role for representative bodies and associations.

1.38. the CoR is a political body that represents the general interests of all decentralised authorities in the Union. This places it in a different position, from both civil society, the forum for the spontaneous organisation of specific interests; and secondly, from the European associations of regional and local authorities which, although made up of political bodies, are private in nature and represent the interests of their members; and thirdly, from individual local and regional authorities which are political in nature but represent their own individual and specific interests. Furthermore, its specific status as a formal EU advisory body distinguishes it from the European associations of regional and local authorities.

1.39. this in no way lessens the legitimacy of the other bodies which represent regional or local interests in the dialogue with the Community institutions, and which the institutions need to consult on a systematic basis depending on the particular information required. In the light of the issue to be addressed, it seems perfectly natural that the Commission should organise early consultation forums that include the European or national associations concerned by a particular matter, or indeed individual regions where the issue is especially specific to a given territory or territorial grouping.

Regions with legislative powers

1.40. calls on Member States to institute suitable national mechanisms, in keeping with their internal arrangements, to enable local and regional authorities (or combinations thereof) to engage in the preparation of matters falling within their own competence in 'national' positions with a view to discussion in the EU Council of Ministers.

1.41. reiterates its view that participation in all the preparatory phases of Council decision-making is necessary to ensure that all issues that are the specific responsibility of the regional and local authorities (according to the constitutional provisions of each Member State) or are of direct relevance to them, are dealt with in a comprehensive and effective manner.

1.42. also believes that, in addition to the national parliaments, and in accordance with the constitutional provisions of each Member State, the Committee of the Regions as the representative of local and regional authorities should also be involved in the ex-ante supervision of compliance with the subsidiarity principle and the allocation of powers.

1.43. rejects any notion that the development of regional lobbying 'can hardly be interpreted as a sign of solidarity towards other regions.' As the representative of the various regional and local authorities considers it very understandable for individual regions, local authorities and their representative bodies to pursue their own interests within the European Union, whilst at the same time actively seeking common ground within the Committee of the Regions.

1.44. supports the efforts of regional parliaments with legislative powers to further expand institutional contacts with the European Parliament.

1.45. also rejects the rapporteur's association (change from original proposal) of the regions with strong constitutions with rich EU regions and his conclusion that there is a risk of discrepancy between the integration of rich and poor regions. This theory does not stand up to a scrutiny of the statistics for regional GDPs in the EU compiled by Eurostat, whose most recent data underpin the First progress report on economic and social cohesion presented by the Commission on 4 February 2002 ⁽¹⁾. These regions may defend their common interests by virtue of the specific powers vested in them but nonetheless show solidarity with the other EU regions and local authorities and, in particular, lay store by a fair economic and social cohesion policy.

Concluding remark

1.46. therefore calls on all regions with legislative powers and all other sub-national authorities to pool their know-how and experience in order to work together to strengthen the application of the principles of subsidiarity and proximity in the European Union.

2. The Committee of the Regions' recommendations for changes for incorporation into a new Treaty

Founding principles

2.1. at Article 6 TEU, should make a statement of the Union's Governance Principles, largely as set out in the White Paper on European Governance, i.e. comprising 'openness, participation, accountability, effectiveness, coherence, subsidiarity [proximity], proportionality', we would add 'consultation; partnership.'

2.2. at Article 6 TEU, where it refers to the founding principles of the Union, should make specific reference to regional Self-Government and to the European Charter of Local Self-Government, and should reflect that commitment in the following terms: 'The Union shall respect the principle of regional Self-Government and the rights related to Local Self-Government, as guaranteed in the Charter of Local Self-Government of the Council of Europe of 1985.'

2.3. additionally, at Article 6 TEU (paragraph 3) should make reference to the Charter of Fundamental Rights, and that the provisions of the Charter should be incorporated into the Treaty at the appropriate point(s); in this connection, Article 6 TEU, where it refers to respecting the identities of its Member States, should read 'the Member States, including (in accordance with their internal organisation) their regions and local authorities.'

Subsidiarity

2.4. at Article 5 TEC, insert 'the Community shall give consideration to (and respect) the internal rules and organisation of the Member States regarding the distribution of competences'.

2.5. at Article 5 TEC the definition of subsidiarity should make explicit reference to 'the Member States or their local and regional authorities, according to the competences reserved for them by each Member State',

2.6. at Article 5 TEC, should consider a mechanism (not necessarily a new institution) for reviewing the application of the principle of subsidiarity, and impose upon the Member States 'a duty to establish a mechanism for reviewing the application of the principle as it applies in that state'.

⁽¹⁾ COM(2002) 46 final.

2.7. at Article 10 TEC (first paragraph):

'Member States, and their regional and local authorities, in the context of their respective competences, shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Treaty or resulting from action taken by the institutions of the Community.'

'In connection with this, all legislative proposals shall include an estimate of the resource implications (financial and administrative) for the implementing bodies.'

The following wording should be added to Article 230 of the TEC: 'The Court of Justice shall be responsible for hearing complaints lodged by a Member State, a region or local authority of a Member State, or the Committee of the Regions, concerning contravention of the subsidiarity principle.'

Consultation

2.8. at Article 211 TEC, at the end add an obligation on the 'Commission to pursue its activity in a spirit of partnership with the Member States and with elected regional and local authorities or their representative bodies, observing its principles of good governance, notably that of consultation.'

Concerning the Committee of the Regions as an institution

2.9. at Article 7 TEC (paragraph 1) insert 'Committee of the Regions' into the list of full institutions (and therefore delete existing reference in paragraph 2).

2.10. in Part Five, Title 1, Chapter 1 ('The institutions') insert a new section 5 'The Committee of the Regions' to give effect to its request to be a full institution. Articles and provisions currently under Chapter 4 would transfer to this new section.

The right of the Committee of the Regions to bring actions before the Court of Justice in defence of its prerogatives should be enshrined in the third paragraph of Article 230 TEC as follows: 'The Court of Justice shall have jurisdiction, under the same conditions in actions brought by the European

Parliament, by the Court of Auditors, by the ECB and by the Committee of the Regions for the purpose of protecting their prerogatives'.

2.11. at Article 263 TEC to be amended thus: 'The Committee of the Regions, consisting of representatives of regional and local government bodies, shall exercise the functions conferred upon it by this Treaty.'

2.12. at Article 265 TEC (paragraph 1), add at the end: 'failure to consult the Committee where that is deemed mandatory by this Treaty shall give rise to a suspension of the procedure in the other institutions (or invalidate a decision already taken) pending transmission of the Committee's opinion within the time limits set down in this Treaty.' This shall, in effect, provide the Committee with a right of suspensive veto in such cases.

2.13. at Article 265 TEC (paragraph 2), the time limit should be extended to three months, to reflect the fact that the Committee only has resources to hold five plenary sessions annually.

2.14. at Article 265 TEC (paragraph 3), add at the end: 'The Committee shall have the right to address written and oral questions to the Commission.'

2.15. at Article 265 TEC [paragraph 7 (new)]: 'The Council and the Commission shall provide on a regular basis a reasoned report on action taken in response to the Committee's opinions.'

Co-decision procedure

2.16. at Article 251 TEC (paragraph 4) concerning the composition of the Conciliation Committee, add 'The Committee of the Regions may participate as observer on all matters subject to mandatory referral under this Treaty, with a view to advising the other institutions of the implications for the spheres of governance that it represents.'

2.17. Instructs its President to forward this opinion to the President of the European Parliament, the Council, the European Commission and the Chairman of the European Convention.

Brussels, 21 November 2002.

*The President
of the Committee of the Regions*
Albert BORE

Opinion of the Committee of the Regions on 'A better division and definition of powers in the European Union'

(2003/C 73/16)

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 European Union;

having regard to the Charter of Fundamental Rights of the European Union, and in particular its preamble;

having regard to the contributions of the European Convention, particularly documents CONV 47/02, CONV 50/02 and CONV 162/02 on the division of powers and legal instruments;

having regard to its contribution to the European Convention (CdR 127/2002 fin) adopted on 4 July 2002;

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) ⁽¹⁾;

having regard to the draft opinion (CdR 119/2002 rev. 2) adopted by the Commission for Constitutional Affairs and European Governance on 4 October 2002 (Rapporteur: Mr Olivas Martínez (E-EPP), President of the regional government of Valencia;

whereas there is an urgent need for public understanding of who does what in Europe and a legitimate demand for transparency and simpler procedures;

whereas the Community must recognise rights already acquired at national level by local and regional governments;

whereas the EU must provide for flexibility in the legislative phase in order to ensure that the diversity of the Member States and their regional and local authorities is respected;

whereas the CoR must be given an active role in monitoring respect for the subsidiarity principle,

adopted the following opinion by a majority at its 47th plenary session held on 20 and 21 November 2002 (meeting of 21 November).

1. The Committee of the Regions' views

The Committee of the Regions

1.1. believes that the Union's current objectives, as reflected in the Treaty, must not only be maintained, but should be supplemented and strengthened. In this regard, it must be explicitly stated that safeguarding the principles of freedom, democracy and solidarity, respect for human rights and fundamental freedoms and the rule of law, together with respect for cultural, linguistic and territorial diversity, and promoting these values in the rest of the world is an objective of the Union.

1.2. considers that the objective of improving economic and social cohesion should be reinforced by making it a fundamental aim of the Treaty, and that territorial cohesion should be a further such aim. If we do not make a concerted effort to address the increased diversity that enlargement will bring, political and economic integration, the Union's prime aim, will be threatened.

1.3. believes that responsibility for achieving these objectives should be shared between the Union institutions and national, regional and local authorities; to this end, the

⁽¹⁾ OJ C 192, 12.8.2002, p. 31.

principle of cooperation, which is implicit in Article 10 of the EC Treaty ⁽¹⁾, should be explicitly stated in the new treaty.

1.4. believes there is a need to seek ways of increasing consistency between the Union's different policies on the basis of its fundamental horizontal objectives, including, *inter alia*, economic and social cohesion, environmental conservation and equal opportunities, with due respect for the subsidiarity principle. The obligation for all Union policies to serve these horizontal objectives must be enshrined in the Treaties to enable the Court of Justice of the European Communities to monitor compliance.

1.5. believes that the division of competence within the European Union must be based on the fundamental principle that any competence not assigned to the Union remains the responsibility of the Member States. This principle is already incorporated in the Treaties, although only the EC Treaty refers to it explicitly.

1.6. reiterates its view that the principles of subsidiarity and proportionality, as enshrined in the Treaties, must be supplemented by provisions to guarantee constitutional respect for the competence of the regions and local authorities. In the interests of transparency and correct implementation of the subsidiarity principle, the procedure for adopting decisions on the basis of these clauses should also be modified.

1.7. notes that the lack of a hierarchy and clear structure as to the type of laws to be used and non-compliance with the principles of subsidiarity and proportionality ⁽²⁾, which seek to bring decision-making closer to the citizens via the Member States and local and regional entities, are among the main problems impeding an appropriate division of responsibilities.

1.8. considers that the principle of the allocation of competences should be consolidated, and that there is thus a need for a clear system for the allocation of competences in a way which can be easily understood by both the public and political players at grassroots level. It would also seem desirable to further clarify the allocation of legislative, executive and supervisory powers within the EU. The application of principles such as separation, balance and cooperation between powers must be defined in the new constitutional framework.

⁽¹⁾ 'Member States shall take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Treaty or resulting from action taken by the institutions of the Community. They shall facilitate the achievement of the Community's tasks. They shall abstain from any measure which could jeopardise the attainment of the objectives of this Treaty.'

⁽²⁾ Preadsidium Note 47/02, 15 May 2002.

1.9. stresses its belief that the Union should be given all the powers necessary to achieve its objectives and the most appropriate instruments to carry out its tasks (CdR 127/2002 fin, point 3.2), and suggests that the division into three pillars on the basis of subject area be abandoned in favour of a unified approach, but that a case-by-case policy be retained for legislative procedures and institutional competences. Indeed, the scope of the instruments at the Union's disposal must vary according to the intended aim and the type of competence — exclusive, shared, supplementary or coordinating powers — concerned.

1.10. reiterates its desire for the political objectives set out in Article 2 of the EU Treaty to be strengthened as follows:

- the establishment of a genuine common foreign and security policy, *inter alia* by granting the Union exclusive competences in this field, in order to give it a greater role on the international stage; in this regard the integration of trade, development and humanitarian aid policy is essential;
- the creation of an area of freedom, security and justice for European citizens, on the basis of the Charter of Fundamental Rights, which is the basic instrument underpinning rights. Community immigration and asylum policy must become a genuinely integrated policy taking into account respect for human rights, preservation of the Union's social cohesion, the need to combat illegal immigration, and concern for the development of immigrants' countries of origin;
- the consolidation of the European social and economic model, in which social and territorial cohesion, a high level of social security and a better quality of life, far from being incompatible with economic progress, are a prerequisite for each region's competitiveness;
- a sustainable development policy, with better coordination of environmental, social and economic policies (CdR 127/2002 fin).

1.11. judges that on one hand a transfer of new competences and a handing back of powers in the context of a better division of powers must be envisaged, as stated in previous opinions ⁽³⁾. However, it certainly seems to be the case that the citizens want the Union to have more instruments with which to achieve some of its objectives, in particular achieving an area of freedom, security and justice and reaffirming the identity of the Union in the international arena.

⁽³⁾ See CoR opinion 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).

1.12. considers that any division of competence must respect the subsidiarity principle.

1.13. notes that the competences assigned to the Union are mainly legislative in nature, and are based on the objectives to be achieved. However, except where there is a justified exception, national, regional and local authorities are largely responsible for implementing and applying legislation. Indeed, even in the specific cases where the Treaties do grant exclusive competence in certain areas, final implementation is normally the responsibility of national, regional or local authorities.

1.14. considers that respect for the principle of subsidiarity also judges the strength of the legal instrument chosen and that a priori the most appropriate legal instruments, therefore, are framework laws and directives. In this context, it is desirable to reduce the number of procedures and adopt terminology corresponding to everyday words used in the Member States which are most familiar to the citizen, that is to say, law and framework law. More detailed regulations should be used only where these are necessary to achieve the objective. Once legislation has been drawn up, the subsidiarity principle should be borne in mind when determining the level of government competent to implement it. Moreover, where basic law assigns competence for implementation to the European institutions, the explanatory statement must clearly mention the obligation to respect the subsidiarity principle.

1.15. considers, however, that in practice neither Article 5 nor the protocol annexed to the Treaty of Amsterdam have been implemented in an entirely satisfactory manner, for reasons ranging from incorrect political interpretation on the part of the Commission, which has, on occasion, interpreted the concept of exclusive competence somewhat broadly, to the vague wording of Article 5 itself. Without question, it has been the regional and local authorities which have suffered most from the failure to apply the subsidiarity principle fully.

1.16. notes that the problem of monitoring implementation of the subsidiarity and proportionality principles and the division of competences has provoked a debate on the merits of either a preventive political control procedure or ex-post judicial control by the European Court of Justice. The CoR favours the judicial option, as it would enable it to play an active role in the appeal procedure. Political control of European legislation must go in the first place to the European institutions, but the CoR also recognises the role played by national parliaments and competent regional parliaments in the control of the action of their governments at the European Council.

1.17. considers, however, that creation of an ex-post judicial appeal procedure would require a new referral procedure with suspensive effect, to be initiated prior to entry into force of a legislative act. The European Commission, a significant minority of the Council, the European Parliament and the Committee of the Regions would all be able to initiate the procedure. The judicial ruling would have to be delivered within 30 days and would constitute the final decision on whether or not the subsidiarity principle, the principle of proportionality and the allocation of powers had been applied correctly.

1.18. considers that clauses such as Articles 95 and 308 of the EC Treaty will have to be made more specific in terms of the subsidiarity principle if the European Union is to continue reacting in a flexible manner to new challenges. This will help safeguard the momentum of the integration process and provide for the possibility of future changes in the allocation of competences between the Union and national authorities.

2. The Committee of the Regions' recommendations

The Committee of the Regions

Transparency and clarification of competence

2.1. believes that the principle of cooperation between all levels of government must be a fundamental principle of the Union's operation in the future as an expression of the shared responsibility for attaining the objectives of European integration.

2.2. believes that Article 5 of the EC Treaty should make an explicit reference to the subnational (regional and local) entities.

2.3. considers that the co-decision procedure must apply in all cases, in order to ensure that the European Parliament is involved, and that in all cases of obligatory consultation of the Committee of the Regions as foreseen in the Treaty, it is desirable that the CoR is involved downstream in the procedures.

2.4. further believes that its action should be reinforced by a binding instrument with greater force than a normal opinion, such as a right of suspensive veto or the power to propose legislative initiatives limited to relevant areas that fall within the competence of regional and local authorities and on which consultation of the CoR is obligatory, particularly the multiannual reforms of European Union policies such as the structural funds or transport policy.

2.5. proposes, regarding the classification of competences, that a clear distinction be made between:

- exclusive competences of the Union, primarily the responsibility of the European Union institutions,
- shared competences, where responsibility is shared between the Union and the Member States (and, depending on the internal organisation, between national, regional and local authorities),
- secondary competences, where the Union's role is confined to supplementing or supporting action by the Member States, adopting supporting measures or coordinating the Member States' actions. On this front, there appears to be a need for greater clarity concerning the limits of Union action in order to ensure respect for the prerogatives of the Member States and of the subnational levels in the spheres of education, training, youth, civil protection, culture, sport, health, industry and tourism. When, in an area relevant to secondary competences, Member States deem it necessary to use 'open coordination', this must be accompanied by proper parliamentary control and involve sub-national levels which have executive competences in this area.

2.6. believes that the current division of competences based on the objectives to be achieved should be maintained, and that the Union should be given all the instruments necessary to achieve them. It must, therefore, have at its disposal a different range of instruments from that based on an allocation of competences by subject. This method has been key to Community integration, and should continue to be so, provided that the principles of subsidiarity and proportionality are respected whenever it is used.

2.7. considers, nonetheless, that a clearer division of responsibilities cannot be synonymous with producing a catalogue or list of competences by policy area, since this would be an illusion of transparency which would be likely to mislead citizens, since reality is very difficult to compartmentalise, with regulation of one area always impacting on others and the fact that in practice the vast majority of powers are shared in one way or another (irrespective of whether they are defined as concurrent, complementary, etc.

Implementation and compliance: framework laws and a control system

2.8. considers that in accordance with the subsidiarity principle, framework legislation should be the preferred

option, to allow Member States and, where appropriate, regional and local authorities, to tailor legislation to their own specific features.

2.9. considers that correct implementation of the subsidiarity principle is crucial for the protection of the principles of local and regional autonomy and, consequently, that the Treaty should recognise the fundamental role played by local and regional authorities in bringing European decisions closer to the public.

2.10. believes that any consideration of the division of tasks between the Union and the Member States must also encompass the question of the implementation of competences; considers, consequently, that if the European Commission is asked to adopt implementing rules in areas where sub-national decision-making levels have executive competences, representatives of local and regional administration should be involved in the comitology procedures.

2.11. proposes that the CoR be given a key role in monitoring application of this principle, since it is the European Union body responsible for the institutional representation of local and regional authorities.

2.12. supports the creation of an ad-hoc chamber within the European Court of Justice responsible for monitoring application of the subsidiarity and proportionality principles.

The principle of related actions and the flexibility clause

2.13. emphasises the importance of ensuring that the principle of related actions is applied, i.e. a commitment that any allocation of tasks to regional and local authorities must be accompanied by the financial resources needed to carry them out.

2.14. shares the view that there is a continued need for the flexibility clauses contained in Articles 95 and 308 of the EC Treaty, which must in any event have the favourable opinion of the European Parliament, and require consultation of the CoR where there would be a strong territorial impact.

2.15. instructs its President to forward this opinion to the European Convention, the Presidency of the Union, the Council, the European Parliament and the European Commission.

Brussels, 21 November 2002.

*The President
of the Committee of the Regions*
Albert BORE

Opinion of the Committee of the Regions on 'More democracy, transparency and efficiency in the European Union'

(2003/C 73/17)

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 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 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 and 21 November 2002 (meeting of 21 November).

⁽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.

1. The Committee of the Regions' views

The Committee of the Regions

1.1. considers the Future of Europe debate to be of the utmost importance, given the challenges the European Union is due to face;

1.2. 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;

1.3. recognises that reform is all the more essential given the likely impacts of the imminent enlargement of the European Union;

1.4. welcomes the Convention on the Future of Europe as an innovative and inclusive means of developing proposals for the way forward;

1.5. 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;

1.6. 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;

1.7. 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:

1.7.1. 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;

1.7.2. 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;

1.8. 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;

1.9. 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;

1.10. 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;

1.11. 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;

1.12. 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;

1.13. 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;

1.14. 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

2.1. proposes that in framing any reform, which seeks to increase democracy, transparency and efficiency, the European Union should build on the following principles:

2.2. 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;

2.3. 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;

2.4. 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;

2.5. 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;

2.6. 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*

2.7. 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;

2.8. 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.

2.8.1. 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.

2.8.2. 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.

2.8.3. 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.

2.8.4. 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.

2.8.5. 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.

2.9. 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*
Albert BORE

Opinion of the Committee of the Regions on 'Simplification of the Union's instruments'

(2003/C 73/18)

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 its 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 the Communication of the European Commission on European governance: Better lawmaking (COM(2001) 275 final);

having regard to the Communication of the European Commission on an Action plan: Simplifying and improving the regulatory environment (COM(2002) 278 final);

having regard to the report of the European Commission to the European Council on Better lawmaking 2001 (COM(2001) 728 final);

having regard to the Communication of the European Commission on Impact assessment (COM(2002) 276 final);

having regard to the Communication of the European Commission: Consultation document: Towards a reinforced culture of consultation and dialogue: Proposal for general principles and minimum standards for consultation of interested parties by the Commission (COM(2002) 277 final);

having regard to the recommendations of the high-level group chaired by Mr Mandelkern;

having regard to the contributions by the general secretariat of the European Convention CONV 50/02 and CONV 162/02;

having regard to its contribution to the European Convention adopted on 4 July 2002 (CdR 127/2002 fin);

having regard to its previous opinions on the implementation of EU law (CdR 51/1999 fin)⁽¹⁾, the principle of subsidiarity (CdR 302/98 fin)⁽²⁾, and the reports of the European Commission on Better lawmaking 1998 and 1999 (CdR 50/1999 fin and CdR 18/2000 fin)⁽³⁾ ⁽⁴⁾;

having regard to its opinion of 13 March 2001 on the White Paper on European governance (CdR 103/2001 fin)⁽⁵⁾;

having regard to the draft opinion (CdR 121/2002 rev.) adopted on 4 October 2002 by its Commission for Constitutional Affairs and European Governance (rapporteur: Mr Guarischi (I-EPP), Councillor for the Lombardy Region),

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

⁽¹⁾ OJ C 374, 23.12.1999, p. 25.

⁽²⁾ OJ C 198, 14.7.1999, p. 73.

⁽³⁾ OJ C 374, 23.12.1999, p. 11.

⁽⁴⁾ OJ C 226, 8.8.2000, p. 60.

⁽⁵⁾ OJ C 192, 12.8.2002, p. 24.

1. Views of the Committee of the Regions

1.1. *Simplification as an instrument for relevant, high-quality EU legislation*

1.1.1. The Commission suggests the adoption of simplification and rationalisation mechanisms such as co-regulation, self-regulation and voluntary cooperation, and the evaluation of existing acts. The CoR considers that these mechanisms should be geared to the principle of high-quality legislation. With a view to giving substance to democratic methods, which are a benchmark for simplification, introduction of the quality principle would open a path for bringing proceedings before the Court of Justice under Article 230 of the EC Treaty (or Article 232, in the event of proceedings for failure to act).

1.1.2. As regards the monitoring stage, the Commission has rightly raised the subject of 'comitology'. As well as complicating and protracting the decision-making process, this procedure is also criticised for being insufficiently transparent and too far removed from the grassroots, i.e. from the final users for whom simplification is specifically designed. The review of arrangements for monitoring Commission action should give more scope to the institutional advisory bodies.

1.1.3. The inclusion of a definition of legislative and executive power in the future constitutional treaty, and the consequent attribution of these powers to the institutions, could provide a starting point that will open up new opportunities for simplifying and improving the regulatory framework and enhance the conditions for applying the principles of subsidiarity and proportionality, and of proximity to local and regional situations.

1.1.4. As moves are made to simplify and improve the regulatory environment, questions will inevitably be raised, at the Convention, concerning reform of the Union's institutional architecture, not least with a view to enlargement. In this context, enlargement offers an opportunity to improve the institutional set-up and regulatory environment and adapt them to the changing situation.

1.2. *A culture of consultation*

1.2.1. The Commission's statement ⁽¹⁾ that 'implementation of the common policies must be as decentralised as possible' is to be welcomed, as are its explicit mention of 'taking greater account of the diversity of local situations' and the recognition that European rules suffer from a 'lack of proximity'. Proper application of the subsidiarity principle and optimum use of the special role of the Committee of the Regions — as institutional advisory body — are vital in order to address the needs explicitly recognised by the Commission.

1.2.2. When preparing and evaluating simplification measures, decisions must be constantly guided by the principles of subsidiarity and proportionality. The work currently being undertaken to simplify the EU's Structural Funds legislation ⁽¹⁾ — which has a particularly significant impact at regional/local level — is a case in point. Both in the monitoring committees and at the programming stage ('programme complements'), the application of the subsidiarity principle with regard to the joint management of the programmes (partnership) has been deemed unsatisfactory. The Commission's requirement that Member States be sent clear, unambiguous and definitive guidelines on programme management has not been met, nor has the requirement that Member States select the implementation arrangements which they deem most appropriate.

1.2.3. If the intention is to standardise and strengthen the consultation method as a key part of the Commission's commitment to simplifying and improving the quality of legislation — and this is a laudable intention — the first step must be to strengthen the role of the Committee of the Regions. The Commission should specify in its documents the steps it proposes to take to enhance the role of the Community's advisory bodies, and implement these steps in advance of the planned simplification exercise. For its part, the CoR puts forward specific practical requests in the present opinion.

1.2.4. This point is also relevant to the Commission's communication on a culture of consultation ⁽²⁾, in which the Committee of the Regions is asked, under the cooperation protocol, to organise consultations with regional and local authorities on behalf of the Commission. The communication also envisages direct consultation of these authorities by the Commission. The present opinion takes a firm line on this issue, on the principle that the CoR must not only be of assistance in the organisation of consultations, but must be the consulting body to which the Commission makes reference.

1.3. *Analysis based on the current treaty*

1.3.1. Some spheres of Community activity are obvious candidates for simplification, irrespective of the proposals which may subsequently be adopted by the Convention and hence included in the new constitutional treaty.

In almost fifty years, various spheres of Community activity have seen so many pieces of Community legislation that operators and other interested parties now recognise that 'de-legislation' is necessary in order to restore a satisfactory level of legal certainty by codifying, recasting and consolidating the texts concerned. Operators and interested parties often use

⁽¹⁾ COM(2002) 247 final.

⁽²⁾ COM(2002) 277 final.

unofficial consolidated versions which, although of practical use, are symptomatic of a democratic deficit. The Commission should commit itself to specific concrete initiatives that match the intentions voiced in the abovementioned documents, which the Committee endorses.

2. Recommendations of the Committee of the Regions

The Committee of the Regions

2.1. stresses the need to simplify the treaties and the decision-making and legislative processes of the Union, in particular with a view to making them more efficient and, by means of transparency, bringing the Union's citizens closer to their institutions;

2.2. suggests that in order to eliminate a proliferation of legislative instruments that could be detrimental to transparency and a source of legal uncertainty, the aim should be to approximate acts adopted under the first and third pillars and to found the Union's institutional system on a clear separation of powers;

2.3. considers that a clear distinction must be drawn between regulatory acts and implementing acts, and that the former should be limited to basic legislation which should subsequently be fleshed out by more technical implementing rules that respect the principles of subsidiarity and proportionality;

2.4. supports the establishment of a clear hierarchy of legislation to address questions concerning the consistency of procedures and the need for a clear distinction between legislative and implementing measures. The constitutional treaty should define the legislative and executive functions, specifying which institutions are called on to exercise the powers conferred;

2.5. stresses, therefore, the need to make more systematic use of (a) the regulatory instrument of the directive, which is more in keeping with the spirit of subsidiarity, particularly for the application of those policies where there are competing competences; and (b) framework legislation, as this can guarantee the flexibility which the Member States need to ensure that particular local and regional situations are respected, in the light of the proportionality principle;

2.6. calls for consolidation of the trend towards generalised qualified majority voting in the Council;

2.7. considers that simplification and improvement of the Community acquis is desirable, particularly if it is conducted in a manner which respects the quality of the legislative acts concerned and is not dictated solely by quantitative considerations;

2.8. considers that the quality of legislation is greatly influenced by prior consultation (Committee of the Regions and Economic and Social Committee as the institutional interfaces for regional and local stakeholders and economic and social stakeholders), and by a series of instruments such as the open coordination method, self-regulation and co-regulation, to be included in the constitutional treaty alongside the legislative acts already used, only in spheres in which the European Union has competence;

2.9. deems ill-advised the Commission's proposal that it should be able to decide independently, without the agreement of the European Parliament or the Council, to withdraw long-standing legislative proposals for which it has not yet been possible to complete the institutional procedures laid down in the Treaties, even if the aim of the proposal is ultimately to streamline the European legislative procedure; furthermore, clauses setting a deadline for the revision of acts ('sunset clauses') should in all cases be applied with the agreement of the Union's two legislative arms;

2.10. welcomes the proposal for a detailed impact assessment to identify the most appropriate regulatory instruments for adoption, and proposes involving the Committee of the Regions in the assessment procedures regarding matters of local and regional importance; the impact assessment should also cover the impact on the administrations and budgets of regional and local authorities;

2.11. proposes a considerable semantic simplification of all the Union's legislative processes, as the current institutional vocabulary is a real obstacle to transparency and thus to closeness to the Union's citizens who would like, wherever possible, to see the Union following the example of the Member States, at least in terms of semantics;

2.12. notes with interest the Commission's proposal to set up an internal network for better lawmaking, coordinated by its secretary-general and involving all the directorates-general which have regulatory responsibilities, with a view to ensuring that texts are mutually consistent and respect subsidiarity and proportionality from the drafting stage of the regulatory proposal;

2.13. proposes that during the transposition of EU legislative acts by the Member States, and in the implementing stage of legislation, the Commission should not consider solely the role of the Member States, but that the role of the regional and local authorities should also be taken into account;

2.14. proposes that the institutional role of the CoR be recognised and that all the Union's forms of governance be involved in decision-making processes, including the regional and local authorities of the Member States as they are democratically elected and responsible for the implementation of a large proportion of legislation;

2.15. asks the European Commission to implement the cooperation protocol which it signed with the CoR; and urges the European Parliament to make the fullest possible use of its right to consult the CoR, especially on those matters which require co-decision, and which in any event have a specific impact on local situations;

2.16. deems it necessary to stress the usefulness and necessity of the CoR exploiting its ability to initiate a legislative proposal (outlook reports);

2.17. proposes that it be considered as an active participant in 'comitology' procedures, in cases where existing committees within the Commission already deal with matters on which the CoR is required to issue a mandatory opinion;

2.18. proposes that the CoR be placed in a position to establish a permanent, real-time link with regional and local authorities; and to this end, considers it necessary that the staffing of the CoR be increased, more specifically with persons possessing a regional culture and training;

2.19. proposes that the CoR, suitably equipped with the requisite instruments and staff, become a body for monitoring and guaranteeing the application of the subsidiarity principle; and that in this context, the CoR should also check on the uniform application of EU rules in the light of local and regional situations;

2.20. 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*
Albert BORE
