

# Official Journal

## of the European Union

C 71

Volume 48

English edition

### Information and Notices

22 March 2005

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## II

*(Preparatory Acts)*

## COMMITTEE OF THE REGIONS

57<sup>th</sup> PLENARY SESSION OF 17 AND 18 NOVEMBER 2004**Opinion of the Committee of the Regions on the Treaty establishing a Constitution for Europe**

(2005/C 71/01)

THE COMMITTEE OF THE REGIONS,

**Having regard to** the draft report of the European Parliament's Committee on Constitutional Affairs on the Treaty establishing a Constitution for Europe (PE 347.119),

**Having regard to** the decision of the European Parliament of 14 September 2004 to consult it on this matter, under the fourth paragraph of Article 265 of the Treaty establishing the European Community,

**Having regard to** the Treaty establishing a Constitution for Europe signed by heads of State or government on 29 October 2004 (CIG 87/2/04 rev 2, CIG 87/04 Add. 1 rev 1 and Add. 2 rev 2),

**Having regard to** the Presidency Conclusions of the Laeken European Council of 14 and 15 December 2001, and in particular the Laeken Declaration on the Future of the European Union,

**Having regard to** the Presidency Conclusions of the Brussels European Council of 17 and 18 June 2004,

**Having regard to** its opinion on the CoR proposals for the Intergovernmental Conference (CdR 169/2003 fin <sup>(1)</sup>), its resolution on the Recommendations of the European Convention (CdR 198/2003 fin <sup>(2)</sup>), its resolution on the Outcome of the IGC (CdR 22/2004 fin <sup>(3)</sup>), and its declaration on the Constitutional process of the Union (CdR 77/2004),

**Having regard to** its opinion on The participation of regional government representatives in the work of the Council of the European Union, and of the CoR in informal Council meetings (CdR 431/2000 fin <sup>(4)</sup>),

**Having regard to** its draft opinion (CdR 354/2003 rev. 1) adopted on 21 September 2004 by the Commission for Constitutional Affairs and European Governance (rapporteurs: Mr Franz Schausberger, Representative of Land Salzburg in the Committee of the Regions (AT-EPP) and Cllr Lord Tope, Greater London Authority (UK/ELDR).

<sup>(1)</sup> OJ C 23 of 27.1.2004, p. 1

<sup>(2)</sup> OJ C 256 of 24.10.2003, p. 62

<sup>(3)</sup> OJ C 109 of 30.4.2004, p. 52

<sup>(4)</sup> OJ C 107 of 3.5.2002, p. 5

- 1) **Whereas** the spirit of the Laeken Declaration and the commitments made by heads of state or government was to give the Union a constitutional basis, guaranteeing greater democracy, legitimacy, transparency and efficiency in order to face up to the democratic challenge of an enlarged Europe,
- 2) **Whereas** the European Commission's White Paper on European Governance acknowledges that the EU has moved into a system of multi-level governance and that consequently there must be an enhanced role for and greater respect towards the powers of the local and regional spheres of government,
- 3) **Whereas** the Constitutional Treaty provides a constitutional basis for applying and guaranteeing the subsidiarity principle, while protecting the prerogatives of Member States, regions and local authorities and taking account of the administrative and financial impact of Union legislation on regional and local authorities,
- 4) **Whereas** the creation of a new *ex ante* policy monitoring mechanism, which for the first time in the history of European integration associates national parliaments - and where appropriate, regional parliaments with legislative powers - with the European legislative process, and the involvement of the Committee of the Regions in the process of ex-post monitoring, are the key innovation of the Protocol on the Application of the Principles of Subsidiarity and Proportionality,
- 5) **Whereas** it is important to strike a balance between compliance with the principles of subsidiarity and proportionality and the need for efficient action by the Union,
- 6) **Whereas** referral from the European Parliament recognises the contribution made by the CoR to the constitutional process, in particular in its capacity as representative of local and regional authorities in the European Convention.

**adopted the following opinion at its 57<sup>th</sup> plenary session of 17 and 18 November 2004 (meeting of 17 November:**

## 1. The Committee of the Regions' views

### THE COMMITTEE OF THE REGIONS

#### (a) *Constitutional process*

1.1 **congratulates** the Irish Presidency for its achievement in successfully chairing and concluding the Intergovernmental Conference (IGC) within its term of office;

1.2 **recalls** its contributions to the constitutional process as presented by the delegation of CoR observers to the European Convention and the joint actions and initiatives with European associations of regions and local authorities focussing primarily on the subsidiarity mechanism and the regional and local dimension in the Constitution; **welcomes** that the Intergovernmental Conference adopted the respective proposals presented by the European Convention;

1.3 **reiterates** its support for the constitutional process, particularly of its Convention phase which was open, participatory and inclusive; **considers** that the Convention recognised but underestimated the role and place of local and regional authorities in the process of European integration as shown in particular through the organisation of a half-day session on this subject; **regrets** that the Convention was not given more time to discuss in depth the provisions for the policies of part III of the Constitution leading to the fact that part III does not always follow the system of competences laid out in part I;

1.4. **welcomes** the support from the European Parliament, in the preparation of the Constitutional Treaty, for a fuller recognition of the institutional and political role of local and regional authorities in the Community decision-making process (cf. report Mr Napolitano on 'The role of the regional and local authorities in building Europe' and the report of Mr Lamassoure on 'Division of competences between the EU and the Member States');

#### (b) *The Treaty*

1.5 **considers** that the Treaty represents a positive step forward for the European Union and puts in place many necessary arrangements for the effective governance of the Union;

1.6. **considers** that both the establishment of an explicit link between the coordination of economic and employment policies [Article I-14 and I-15] as well as the introduction of a horizontal social clause, according to which the Union must take into account, when defining and implementing its policies, requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health [Article III-117], will provide an appropriate legal basis for pursuing the European social model and sustainability as laid down in the preamble of the Charter of Fundamental Rights of the Union and the objectives of the European Union [Article I-3(3)];

1.7. **welcomes** the inclusion of the text of the Charter of Fundamental Rights into the Treaty, which will give citizens greater clarity and certainty as to their rights arising from citizenship of the Union, and will provide for a more just and social Europe;

1.8. **regrets** the entrenchment of the national veto in a number of areas, and considers that this will act as an unnecessary impediment to efficient decision-taking;

1.9. however **welcomes** the provision for unanimous action by the Council in concluding international agreements on trade in culture, audiovisual, social, education and health services [Article III-315];

1.10. **welcomes** the provisions for applying the normal legislative procedures for part III of the Constitution [Article IV-445];

1.11. **considers** that the Treaty provides a clearer definition and distribution of powers within the Union, a simplification of its instruments and a strengthening of the democratic legitimacy, transparency of the decision-making process and efficiency of its institutions, and provides the Union with the necessary flexibility to develop in new directions.

(c) *Subsidiarity and the role of sub-Member State government*

1.12. **welcomes** the new definition of the principle of subsidiarity and the involvement of the Committee of the Regions in the process of *ex-post* monitoring of the application of the principle of subsidiarity; [Subsid-Article 8]; **welcomes** also that it will receive the report of the Commission on the application of Article I-11 of the Constitution (subsidiarity and proportionality) alongside the other institutions and the national Parliaments of the Member States [Subsid-Article 9]; **regrets** however that the provisions governing the principle of proportionality are less comprehensive than the ones concerning subsidiarity;

1.13. **welcomes** the reference to local and regional self-government [Article I-5 & Part II-preamble], the acknowledgement of the importance of grassroots democracy in the Union [Article I-46.(3)], and the role of representative associations in the democratic life of the Union [Article I-47 (2)]; **regrets** however that the CoR was not referred to in Title VI ('democratic life of the union') [Article I-46] concerning the principle of representative democracy, given that its members represent the democratic principle of proximity at the heart of the Union;

1.14. **considers** that the fuller recognition of the local and regional dimension within the new architecture of the Union will both improve its effectiveness and its linkages with citizens: European integration should entail political decision-making where account is taken of the views of local and regional authorities, as it is these spheres of governance that are responsible for the transposition and implementation of a large proportion of EU legislation and policy, and are closest to

the citizen so can therefore contribute substantially to the quality of Union legislation; [Article I-5] however **states** that consultation cannot substitute responsibility and accountability of regions and local authorities within their respective spheres of competence which have to be respected; they must be given the chance to prove that they can, according to the internal provisions of the respective Member State, sufficiently achieve the objectives of the intended action;

1.15. **welcomes** the provision that the Union shall respect Member States' national identities and their fundamental structures, including the right to regional and local self-government, and their essential State functions [Article I-5] especially those designed to guarantee territorial integrity, maintain public order and safeguard national security, as this can be the key for maintaining responsibility and accountability of democratically legitimised local and regional authorities;

1.16. **welcomes** that the Treaty safeguards the right of regional ministers to take part in Council meetings on behalf of their Member State, as it confirms the text of Article 203 of the EC Treaty in Article I-23 (2); **calls on** Member States to provide internally structures and mechanisms to involve regions and local authorities in shaping Member States' European policies and to safeguard regional participation also in the new regime of Council formations, on issues that fall within their competence;

1.17. **welcomes** the requirement of fuller consultation in the pre-legislative phase - for local and regional authorities to participate fully in the European decision-making process for which they have responsibility for transposition and/or implementation, they need to be well informed of current developments and adequate prior consultation is essential; this is a two-way process in which consultation may enable the Commission itself to be better informed about the local and regional dimension and thereby lead to more better lawmaking. [Subsid-Article 2];

1.18. **calls** for a real dialogue to be established and extended into key thematic areas early in the new Commission's term of office;

1.19. **urges** improved direct consultation at national level between national parliaments and local and regional authorities responsible for transposition and/or implementation of Union legislation;

1.20. **welcomes** the Treaty requirement for prior account to be taken by the European Commission of the financial and administrative consequences of its legislative proposals, and **considers** that this must include an evaluation of the impact on local and regional authorities, given that they are often the sphere of governance ultimately responsible for delivery and implementation of new EU initiatives; **invites** the European Parliament to give similar consideration to the impact of its legislative amendments [Subsid-Article 4];

1.21 **acknowledges** the broad and valuable debate held at the CoR Berlin conference on Subsidiarity on 27 May 2004; **understands** that a fuller consideration of the application and assessment of the principles of subsidiarity and proportionality will be undertaken in a forthcoming CoR opinion.

(d) *Policies*

1.22 **welcomes** the inclusion of territorial cohesion among the objectives of the Union and the inclusion of regions facing various types of difficulty amongst those to receive particular attention; **regrets** however that the Treaty does not make reference to cross-border, transnational and inter-regional cooperation, nor does it provide a clear legal instrument nor a framework for financial support to town-twinning or other such cooperation [Article III-220-224] - there is a long tradition of trans-border, transnational and inter-regional cooperation in Europe which is one of the socio-cultural foundations of European integration and gains even greater significance in the context of the new neighbourhood policy. A legal base is therefore indispensable in order to give the Union the means to enable such cooperation;

1.23 **welcomes** that the Treaty provides for Member States – and their constituent spheres of governance – to provide, to commission and to fund services of general economic interest;

1.24 **welcomes** the recognition given to cultural and linguistic diversity, as this will help preserve and promote local and regional heritage and identity, and combat the homogenisation of European culture; [Articles I-3 and III-280];

1.25 **takes note** of the inclusion of supporting, coordinating or complementary action at Union level in the areas of sport [Article III-282], tourism [Article III-281] and civil protection [Article III-284], where local and regional authorities have important roles and **calls** on the Commission to generally make use of European framework laws;

1.26 **considers** the conferral of competences to the European Union in the trade in culture, education, health and social services needs close monitoring of compliance with the principles of subsidiarity and proportionality and **recommends** that the Commission generally makes use of European framework laws leaving national, regional and local authorities the choice of form and methods in achieving the desired results.

(e) *Committee of the Regions*

1.27 **regrets** that the IGC did not strengthen the institutional status of the Committee of the Regions in order to firmly

establish its areas of mandatory consultation within the constitutional architecture and strengthen its consultative role, for example: in areas of shared competence, for measures to coordinate economic and employment policies, and in areas of supporting, coordinating or complementary action;

1.28 **welcomes** the granting to the Committee of the Regions of the right to institute proceedings before the Court of Justice to defend its prerogatives and for infringement of the subsidiarity principle; [Article III-365]; **regrets**, however, that the IGC did not give the regions with legislative powers the option to institute proceedings before the Court of Justice in order to defend their legislative powers;

1.29 **welcomes** confirmation that the term of office will be extended to five years, which in due course may be co-terminus with that of the Parliament and Commission [Article III-386].

## 2. Recommendations of the Committee of the Regions

### THE COMMITTEE OF THE REGIONS

(a) *Ratification of the Treaty*

2.1 **calls upon** the European Parliament to give its assent to the Constitutional Treaty and welcomes the initiative of the EP committee on constitutional affairs to consult the CoR on its opinion on the draft constitutional Treaty;

2.2. **shares** the European Parliament's assessment of the undeniable democratic advances made by the Constitutional Treaty;

2.3. **calls upon** Member States' national and regional parliaments, as appropriate, to ratify the Constitutional Treaty;

2.4. **supports** the European Parliament's political efforts to consolidate the constitutional process by stressing the merits of this Constitution and in particular the suggestions of the Committee on Regional Development;

2.5. **requests** that an interinstitutional agreement be concluded in order to draw up a common communication strategy to publicise and explain the Treaty establishing a Constitution for Europe to the general public, especially given the Treaty's imminent ratification;

2.6. **undertakes** to participate in this strategy and to promote understanding and acceptance of the Treaty by the ordinary citizen and to urge the same of its members and their authorities and representative bodies;



2.7. **welcomes** the initiative '1 000 discussions for Europe' and confirms its willingness to take actively part in the campaign of sensibilisation of the European citizens through its network of local and regional authorities and **calls on** the members of the European Parliament and local and regional elected representatives to join forces in promoting the future European Constitution and to contribute jointly to the political and democratic debate which will accompany the ratification process;

(b) *Implementation of the Treaty*

2.8. **expects** real added value in the Union's democratic life and work to result from the enactment of the Constitutional Treaty;

2.9. **undertakes** to evaluate the new rights and obligations falling upon the Committee itself and to make the necessary preparations and internal re-organisation to respond to its enhanced responsibilities effectively and efficiently;

2.10 **draws the attention** of the European Parliament to several effects of the Constitutional Treaty, and calls on the Parliament to support the CoR in particular vis-à-vis:

- the qualitative involvement of the CoR in the political life of the Union and the Community decision-making process;
- the effective and successful application of the provisions of the Protocol on the principles of subsidiarity and proportionality in terms of both the *ex-ante* political consultation process and *ex-post* legal monitoring;
- respect for the competences of local and regional authorities in accordance with the new definition of the principle of subsidiarity and the new distribution of competences within the European Union;
- recognition of territorial cohesion as a new objective of the Union and respect for the commitments given in the new protocol on economic, social and territorial cohesion;
- promotion of cross-border and inter-regional cooperation as an integrating factor in the European Union despite the lack of a legal basis, particularly with regard to the Union's ambitions vis-à-vis the neighbourhood policy;
- respect for cultural and linguistic diversity enshrined as a new Community objective.

2.11 **encourages** the European Parliament to take further advantage of the possibility of consulting the CoR as enshrined in the Constitutional Treaty [Article III-388] in order to heighten understanding of the local and regional dimension;

2.12 **requests** that in cases where the Committee must be consulted under the Constitutional Treaty, the institution that has consulted the Committee should give its reasons in the

event that it does not implement the Committee's recommendations;

2.13 **requests** to be involved in the defence of the principle of subsidiarity alongside national parliaments in the six-week early warning period and to have the right to produce a reasoned opinion if the proposal does not comply with the principle of subsidiarity and for this to be taken into account [Subsid-Article 6];

2.14 **calls on** national parliaments to establish a regular and effective dialogue with representatives of the local and regional level, who are familiar with the diversity of the issues at hand and responsible for the consequences as far as monitoring application of the subsidiarity principle is concerned;

2.15 **calls on** national governments and parliaments to carry through the spirit and philosophy of the EU 'systematic dialogue' into their domestic governance arrangements, where they do not already exist, by involving regional and local government representatives in the scrutiny of legislative proposals;

2.16 **calls on** the European Commission to report to the Committee of the Regions on the application of Article I-10 (Citizenship), particularly as this governs the right to stand and vote in municipal elections [Article III-129];

2.17 **considering** that the proposal to strengthen the current consultative role of the CoR by means of a horizontal clause stipulating that the CoR shall be consulted in areas of shared competence, for measures to coordinate economic and employment policies, and in areas of supporting, coordinating or complementary action was not accepted, the CoR **calls on** the European Commission to consult in all initiatives in areas of manifest local or regional dimension or competence where no mandatory consultation is provided for in the Treaty. These areas include inter alia legislation on the definition of the principles and conditions, in particular economic and financial, which enable services of general economic interest to fulfil their missions [Article III-122], the liberalisation of services [Article III-147]; Harmonisation of legislation on indirect taxation [Article III-171]; Approximation of legislation in the area of the internal market [Articles III-172, III-173]; State aids [Articles III-167, III-168, III-169]; Agriculture, rural development and fisheries policies [Article III-231]; Research and technological development [Articles III-251, III-252 and III-253], tourism [Article III-281] and civil protection [Article III-284];

2.18 **calls on** the European Commission to consult the Committee of the Regions on any future changes to its composition when preparing a proposal for a Council decision [Article I-32 and Article III-386].

(c) *Review of the Treaty and its provisions*

2.19 **believes** that it is necessary for the further development of the EU to maintain a process of review to decide which tasks can be performed jointly by a considerably enlarged Union;

2.20 **confirms** its will to participate actively and fully in future revisions of the Constitution and proposes that Member States include representatives of regions and local authorities in their delegations to intergovernmental conferences [CdR

198/2003; 3.7.] dealing with treaty-revisions having impact on the sub-Member State levels and to future as well as in delegations for any future Convention;

(d) *Concluding remark*

2.21 **instructs** its President to forward this Opinion to the Council of the European Union, the European Parliament, and the European Commission.

Brussels, 17 November 2004.

The President  
of the Committee of the Regions  
Peter STRAUB

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**Opinion of the Committee of the Regions on the Communication from the Commission to the Council and the European Parliament on the presentation of a proposal for a directive and two proposals for recommendations on the admission of third-country nationals to carry out scientific research in the European Community**

(2005/C 71/02)

THE COMMITTEE OF THE REGIONS

HAVING REGARD TO the Communication from the Commission to the Council and the European Parliament on the presentation of a proposal for a directive and two proposals for recommendations on the admission of third-country nationals to carry out scientific research in the European Community (COM(2004) 178 final - 2004/0061 (CNS) - 2004/0062 (CNS) - 2004/0063 (CNS));

HAVING REGARD TO the decision of the Commission of 29 June 2004 to consult the Committee 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 of 15 June 2004 to instruct the Commission for External Relations to draw up an opinion on this subject;

HAVING REGARD TO *its opinion on immigration policy* (Communication from the Commission on a common policy on illegal immigration (COM(2001) 672 final)) and *asylum policy* (Proposal for a Council Directive on minimum standards for the qualifications and status of third-country nationals and stateless persons as refugees or as persons who otherwise need international protection (COM(2001) 510 final - 2001/0207 (CNS)) adopted on 16 May 2002 (CdR 93/2002 fin) <sup>(1)</sup>;

HAVING REGARD TO its opinion on the Green Paper on a Community return policy on illegal immigrants (COM(2002) 175 final) adopted on 20 November 2002 (CdR 242/2002 fin) <sup>(2)</sup>;

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<sup>(1)</sup> OJ C 278 of 14.11.2002, p. 44

<sup>(2)</sup> OJ C 73 of 26.3.2003, p. 13



HAVING REGARD TO its opinion on the Amended proposal for a Council Directive on the right to family reunification (COM(2002) 225 final – 1999/0258 CNS) adopted on 20 November 2002 (CdR 243/2002 fin) <sup>(3)</sup>;

HAVING REGARD TO its opinion on the Proposal for a Council Directive on the conditions of entry and residence of third-country nationals for the purposes of studies, vocational training or voluntary service (COM(2002) 548 final – 2002/0242 CNS) adopted on 9 April 2003 (CdR 2/2003 fin) <sup>(4)</sup>;

HAVING REGARD TO its opinion on the Proposal for a Council Decision establishing the European Refugee Fund for the period 2005-2010 (COM(2004) 102 final – 2004/0032 (CNS) (CdR 80/2004 fin) adopted on 17 June 2004;

HAVING REGARD TO the draft opinion (CdR 168/2004 rev. 1) adopted by the Commission for External Relations on 17 September 2004 (rapporteur: Mr Skuthälla, Leader of Närpes Town Council (FI, ELDR))

WHEREAS establishing common and fair rules on the entry and residence of third-country nationals for the purposes of scientific research in the EU will bring benefits to migrants as well as to their country of origin and host country. The aim is to promote the entry and mobility of third-country nationals in the territory of the European Community for the purposes of scientific research;

WHEREAS the EU will need 700,000 additional researchers by 2010 if it is to achieve the objective set by the Barcelona European Council to devote 3 % of the Member States' GDP to research and technological development by the end of the decade. To satisfy this need it will be necessary to produce interlocking measures to make science attractive to young people at school, improve the career prospects for researchers in the EU and extend the opportunities for training and mobility. As, however, the EU is unlikely to produce this considerable number of researchers itself, it will also be necessary to take measures to attract researchers from outside the Union;

WHEREAS this proposal for a directive usefully complements the proposals on immigration for the purpose of employment, the right of family reunification and the proposal on the conditions of entry and residence of third-country nationals for the purpose of studies, vocational training and voluntary service, and together they form a set of common rules and a single legal framework;

WHEREAS the European Research Area has been the linchpin of the EU's research policy and is the keystone of the new strategic objective the EU has set itself for the coming decade: to become the most competitive and dynamic knowledge economy in the world. To achieve this objective it will be necessary to develop a global strategy to prepare the transition to a knowledge-based society and economy;

**adopted the following opinion unanimously at its 57th plenary session, held on 17-18 November 2004 (meeting of 17 November).**

## **PROPOSAL FOR A COUNCIL DIRECTIVE ON A SPECIFIC PROCEDURE FOR ADMITTING THIRD COUNTRY NATIONALS FOR PURPOSES OF SCIENTIFIC RESEARCH**

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

#### **on the draft directive:**

#### **THE COMMITTEE OF THE REGIONS:**

1.1 **endorses** the draft Directive, subject to the changes proposed below;

<sup>(3)</sup> OJ C 73 of 26.3.2003, p. 16

<sup>(4)</sup> OJ C 244 of 10.10.2003, p. 5

1.2 **stresses** the importance of adopting, in addition to the measures applying to admission of third-country nationals to carry out scientific research, further coordinating measures to achieve the objective of investing 3 % of Member States' GDP in research before the end of the decade. To this end, scientific careers should be made more attractive to young people, opportunities for further training and mobility should be increased for researchers, and research career opportunities should be improved within the Community. (fourth recital);

1.3 **emphasises** that implementation of the Directive must not lead to a brain drain in emerging and developing countries. Complementary measures to encourage researchers to return to their country of origin and to promote researcher mobility must be adopted in partnership with the countries of origin in order to create a global migratory policy. The CoR would stress the importance of submitting concrete proposals in 2004 in accordance with the Council's request of 19 May 2003. (sixth recital);

1.4 **considers** it appropriate that researcher admission should not require a work permit in addition to a residence permit. However, in addition to the procedures provided for by the Directive, the standard admission procedures are still important for doctoral students who are doing research as part of their study programme, since the Directive does not apply to them. (seventh recital);

1.5 **endorses** the proposal to give research organisations a key role in the researcher admission procedure. However, it is extremely important that the division of responsibilities and duties between the research organisation and the authorities should be clear in order to avoid duplication and clumsy bureaucratic solutions. The CoR would stress that, for reasons of legal certainty, it is important to establish clearly the area of competence of each party. Cooperation between the research organisation and the authorities should not impinge upon the authorities' legal right to carry out monitoring and control activities. (eighth recital);

1.6 **highlights** the vital importance of the hosting agreement in the admission procedure. In the hosting agreement the researcher undertakes to carry out the specific research project and the research institution undertakes to host the researcher, provided he is granted a residence permit. Since the hosting agreement is a precondition for admission, it must include all the relevant information needed to assess each case. Information regarding the research project should also be provided in detail so that the research organisation and – exceptionally – the relevant authority can assess the situation. The Committee of the Regions feels that these aspects have been adequately addressed in the Directive. (ninth recital);

1.7 **notes** that the research organisation's overall economic responsibility for any costs incurred by the researcher during his residence in the Member State could constitute a change to established admission and residence practice. The Committee of the Regions would stress the need to establish with some accuracy the budget lines intended to cover the researcher's residence, health and return expenses, and the starting point for economic responsibility. (tenth recital);

1.8 **considers** that the definition of a 'researcher' is appropriate, as a broad interpretation will enable the directive to be implemented extensively. There is, for example, no requirement for the applicant to have worked explicitly as a researcher in the country of origin. However, the purpose of admission must be to carry out a research project, in conjunction with which teaching in a higher education establishment is also allowed. (eleventh recital);

1.9 **notes** that 'research organisation' has been appropriately defined. In order to achieve the objective of investing 3 % of GDP in research, private sector establishments and firms should

also be covered by the definition. It is extremely important that the organisation can be regarded as conducting research and has been approved by the Member State where it is located. (Article 2);

1.10 **stresses** the need to take on board the views of the regional and local authorities with regard to prior approval of a research organisation that wishes to host researchers from a third country. (Article 4);

1.11 **endorses** the option to withdraw or refuse to extend approval of a research organisation. This can occur when a research organisation no longer meets the conditions laid down in paragraphs 2, 3, 4 and 7 of Article 4; when the researcher does not meet the conditions laid down in Articles 5 and 6; and when the research organisation has entered a hosting agreement with a third-country national against whom the Member State has invoked Article 8(1). The CoR believes that the availability of legal sanctions will provide an incentive to carefully comply with the provisions of the directive, thus giving it a preventive capacity. (Article 4);

1.12 **stresses** the need for researchers with residence permits and valid travel documents to be able to carry out part of the research project in the territory of another Member State, as long as the procedure poses no risk to law and order, security or public health. Depending on how long this part of the research project takes, a new hosting agreement might have to be concluded. On the basis of the hosting agreement, the researcher must be granted residence in the other Member State. The CoR notes that it is also appropriate to facilitate greater mobility within the EU, and this should be regarded as improving its international competitiveness. (Article 13);

1.13 **considers** the requirement for the competent authority to make a decision within 30 days of submission of the application for admission or extension of the residence permit to be necessary in order to guarantee procedural rapidity. In this connection the CoR would emphasise that, for reasons of legal certainty, uniform conventional administrative procedures should be employed whenever an application is deemed to be complicated, as the prescribed deadline does not have to be met in such cases. (Article 15).

*Proposal for a Council recommendation to facilitate the admission of third-country nationals to carry out scientific research in the European Community*

1.14 **considers** that the measures contained in the recommendation are an important step towards gradual compliance with obligations and rules resulting from implementation of the directive;

1.15 **notes** for example the recommendation that researchers should be exempt from the work permit requirement or granted one automatically, which should help to speed up processing times. Given the EU's major long-term need for researchers, there is also justification for only issuing limited duration work and residence permits when the needs of the country of origin make this necessary. (Recommendations 1a, 1c and 2b);

1.16 **stresses** the importance of early involvement of research organisations in the researcher admission procedure in order to create a climate of mutual confidence and optimum cooperation between the research organisations and the competent authorities. (Recommendation 2 c);

1.17 **endorses** the recommendation to promote family reunification where this is not mandatory under the terms of the directive on the right to family reunification, by, for example, permitting family reunification applications to be submitted following arrival in a Member State. The CoR would also stress the importance of processing family members' residence applications within a short timeframe. Any potential problems the researcher's family might experience with their residence application could dissuade the researcher from relo-

cating to the Member States. (Recommendations 3a, 3b and 3d).

*Proposal for a Council recommendation to facilitate the issue by the Member States of uniform short-stay visas for researchers from third countries travelling within the European Community for the purpose of carrying out scientific research*

1.18 **stresses** the need for the Member States to make wide use of the option to issue multiple entry visas. For reasons of competition, it is also appropriate to take account of the length of the research project when establishing the validity period of the visa. Such pragmatic solutions are likely to improve the appeal of relocation in a climate of global competition. (Recommendation 2);

1.19 **highlights** the need for the Member States to comply with the principles established in the recommendation in order to facilitate mobility for researchers who often travel for short periods. Accordingly, it is appropriate to assume that researchers who relocate to the European Union are acting in good faith, and this should also be taken into consideration in connection with their obligation to produce documentation when applying for a visa. (Recommendation 3).

## 2. Committee of the Regions' recommendations (amendments)

### Recommendation 1 on the draft directive

8<sup>th</sup> recital (page 24 of the Swedish language version)

Commission proposal	CoR amendment
The specific procedure for researchers is based on collaboration between the research organisations and the immigration authorities in the Member States: it gives the former a key role in the admission procedure with a view to facilitating and speeding up the entry and residence of third-country researchers in the Community while preserving Member States' prerogatives with respect to immigration policing.	The specific procedure for researchers is based on collaboration between the research organisations and the immigration authorities in the Member States: it gives the former a key role in the admission procedure with a view to facilitating and speeding up the entry and residence of third-country researchers in the Community while preserving Member States' prerogatives with respect to immigration policing, <u>including by other authorities.</u>

### Reason

The involvement of research organisations should not deprive the authorities of their right to carry out immigration policing. Since these tasks are not the sole responsibility of the police, it is appropriate to mention other authorities' immigration policing activities. There should be no need to draw up an exhaustive list of these authorities within the Community.

**Recommendation 2** on the draft directive  
Article 4 1) (page 27 of the Swedish language version)

Commission proposal	CoR amendment
Any research organisation wishing to host a researcher under the admission procedure laid down in this Directive must first be approved for that purpose by the Member State where it is located.	Any research organisation wishing to host a researcher under the admission procedure laid down in this Directive must first be approved for that purpose by the Member State where it is located. <u>Local and regional considerations should be taken into account in the approval procedure by aiming to secure appropriate geographic locations for such research organisations.</u>

**Reason**

The addition is needed in order to stress the importance of including regional and local views in the global assessment of factors that are important in the decision-making process.

**Recommendation 3** on the draft directive  
Article 15 2) (page 32 of the Swedish language version)

Commission proposal	CoR amendment
Reasons shall be given for any decision refusing, amending, refusing to renew or withdrawing a residence permit. The decision shall specify the appeal procedures available and the time limit for taking action.	Reasons shall be given for any decision refusing, amending, refusing to renew or withdrawing a residence permit. <del>The notification shall specify the appeal procedures available and the time limit for taking action.</del> <u>The notification shall contain directions regarding the appeal procedure and include information regarding the necessary content of and appendices to any appeal document, the deadline for submitting the appeal and details of the board of appeal.</u>

**Reason**

For reasons of legal protection, any decision affecting a person's rights and obligations must state as clearly as possible how that person should go about challenging the decision.

Brussels, 17 November 2004.

The President  
of the Committee of the Regions  
Peter STRAUB

**Opinion of the Committee of the Regions on Local and regional government in Russia and the development of cooperation between the EU and Russia**

(2005/C 71/03)

THE COMMITTEE OF THE REGIONS

**Having regard to** its Bureau's decision of 19 March 2004, under the fifth paragraph of Article 265 of the Treaty establishing the European Community, to instruct the Commission for External Relations to draw up an own-initiative opinion on local and regional government in Russia and the development of cooperation between the EU and Russia;

**Having regard to** the statement by the President of the Russian Federation, Mr V. V. Putin, to the annual meeting of Russian federal officials with high-ranking representatives of the business community and local government on 1 July 2004, establishing a basis for the development of permanent dialogue between Russian local and regional authorities and local and regional authorities in the European Union;

**Having regard to** the EU-Russia summit on 21 May 2004;

**Having regard to** the protocol to the Partnership and Cooperation Agreement (PCA), which was signed by the EU and Russia on 27 April 2004 to extend the agreement to the ten new Member States as of 1 May 2004;

**Having regard to** the Communication COM(2004) 106 final of 10 February 2004 in which the Commission proposes measures to improve the effectiveness of EU-Russia relations;

**Having regard to** the European Parliament's report A5-0053/2004 final of 2 February 2004 with a proposal for a European Parliament recommendation to the Council on EU-Russia relations;

**Having regard to** the Rome summit in November 2003;

**Having regard to** its opinion on the *Northern Dimension – Second Action Plan 2004-2006* (COM(2003) 343 final), adopted on 9 October 2003 (CdR 102/2003 fin) <sup>(1)</sup>;

**Having regard to** Federal Law No. 131-FZ of 6 October 2003 on the general organisational principles of local self-government in the Russian Federation, and the current implementation thereof;

**Having regard to** the establishment of the four EU-Russia 'common spaces', as agreed at the St. Petersburg summit in June 2003;

**Having regard to** the opinion of the European Economic and Social Committee on the *EU-Russia strategic partnership: What are the next steps?* of 20 March 2002 (CES 354/2002);

**Having regard to** the letter of intent on cooperation between the Council of the Federation of the Federal Assembly of the Russian Federation and the Committee of the Regions of the European Union of 30 March 2001;

**Having regard to** the 1999 EU-Russia 'Common Strategy', which laid down the EU's basic approach to its relations with Russia;

**Having regard to** the European Charter of Local Self-Government ratified by the Russian Federation in 1998;

**Having regard to** the 1997 Partnership and Cooperation Agreement (PCA) between the EU and Russia;

**Having regard to** the constructive presentation by Mr Alexander Songal, Head of the International Relations Department of the Kaliningrad 'oblast' (regional) Duma, and the subsequent debate at the CoR RELEX Commission meeting on 5 September 2003;

**Having regard to** the constructive presentation by Mr Alexander Viktorovich USS, President of the Parliament of Krasnoyarsk Territory, Member of the Governing Council of the Interregional 'Siberian Accord' Association, and the subsequent debate at the CoR RELEX Commission meeting on 17 September 2004;

<sup>(1)</sup> OJ C 23, 27.1.2004, p. 27

**Having regard to** its draft opinion (CdR 105/2004 rev. 1) adopted by its Commission for External Relations on 17 September 2004 (rapporteur: Mr Lars Abel, member of Copenhagen County Council [DK/EPP]);

Whereas:

- 1) The COR believes that strong regional and local authorities rely on the principle of democratic legitimacy and accountability of their bodies.

The COR therefore urges the authorities in all European countries to develop and expand the principle of local self-government in accordance with the European Charter of Local Self-Government of 15 October 1985, and to avoid any limitation of direct citizen participation at local and regional level.

- 2) EU enlargement has considerably extended the Union's common border with Russia. The EU should secure good relations with Russia, its largest neighbour. For that reason, it should back the development of good governance in Russia, not only at national level, but at regional and local level as well. It is in the EU's own interest to work for an open, stable and democratic Russia that can act as a strategic partner, defend common values, press ahead with reforms, meet its commitments and, together with the EU, play a constructive role vis-à-vis the NIS countries.
- 3) A genuine partnership should be underpinned by a practical strategy and agenda designed to give form and substance to political statements. Practical and concrete steps are needed to address the changes and fresh challenges of the new, enlarged European Union and its relationship with Russia.

At local and regional level, it is vital to secure growth as the mainstay of future welfare and to adapt developments to devolved authorities' differing circumstances. Education, the environment, transport, enterprise promotion through private-public partnerships, social security and health: these are key elements of regional development that must facilitate growth in Russia and the EU and strengthen cooperation among local and regional authorities.

- 4) The EU should also devote special attention to those areas of the Northern Dimension region which have particular development and growth needs, such as northwest Russia, including the Kaliningrad region, and the Russian Arctic areas. It is important to focus on the difficult climate conditions that impact on business development, education, health and the environment.
- 5) The Committee of the Regions intends to focus on those areas of action that fall under regional and local authorities' remit. National authorities handle overarching issues affecting society as a whole, while regional and local authorities focus on those areas that are important for sections of society close to people's everyday concerns.
- 6) The Committee of the Regions must focus its active involvement on practical issues that can be resolved through concrete cooperation between local and regional partners in the EU and Russia. By developing cooperation at local and regional level, the EU can help foster the diversification of the Russian economy that is needed to be able to attract more foreign investment with a view to generating new real capital and revamping infrastructure. The Committee of the Regions notes that the Commission, in its analysis of this question (COM(2004) 106 final of 10 February 2004) points out that much remains to be done to reform bureaucracy and the financial, housing, communal services, healthcare and education sectors. To speed up the structural, social and institutional reforms that are needed in Russia, improvements could be made to the investment and business climate and productivity could be increased in the production sector.
- 7) Through close cooperation on specific projects, the EU can have an input into the balanced implementation of reforms of the public service administration at both federal and regional level. By working together on such projects, the EU can also help strengthen human capital through improvements in specific sectors. The EU must continue to foster international contacts at grassroots level, including education partnerships.

**Adopted the following opinion at its 57<sup>th</sup> plenary session on 17 and 18 November 2004 (meeting of 17 November):**



## 1. The Committee of the Regions' views

### THE COMMITTEE OF THE REGIONS

1.1 **notes**, in the light of the findings of the April 2004 Permanent Partnership Council meeting, that the Partnership and Cooperation Agreement (PCA) remains a key and stable basis for developing cooperation between the EU and Russia. The agreement lays down the framework for bilateral cooperation and provides for the establishment of the bodies that are most needed to discuss and decide on issues of common interest at all levels, to exchange information and to resolve conflicts;

1.2 **is keen** to play a constructive role in helping establish and develop the four 'common spaces' agreed at the St Petersburg summit in May 2003, namely a common economic space, a common space of freedom, security and justice, a common space of cooperation in the field of external security, and a common space of research, education and culture;

1.3 **considers** that many aspects of these four common spaces naturally involve local and regional authorities, and asks that the Committee of the Regions be directly involved in helping develop the common spaces in areas that fall within the Committee's remit and for issues handled under the open method of coordination;

1.4 **welcomes** the fact that the letter of intent between the Committee of the Regions and Russia has laid down specific sectors for local and regional-level cooperation;

1.5 **looks forward to** the entry into force in 2006 of federal legislation on the remit of Russian local and regional authorities, and expects it to be a step forward for potential cooperation between devolved authorities in the EU and Russia, notably by clarifying competences with regard to cross-border cooperation; on the basis of the on-going communication between the Council of Europe and Russia, the COR has every confidence that the principles of the Charter of Local Self-Government will be respected also in connection with the recent legislative proposals in Russia;

1.6 **recognises** the importance of cooperation between local and regional authorities in Russia and the EU that focuses on possible ways of resolving issues of common concern at a devolved, grassroots level;

1.7 **considers** that local and regional-level exchanges of information and best practice foster democracy and social and economic development;

1.8 **is pleased to note** that the positive outcome of projects between local and regional authorities in the EU and Russia is fuelling the desire for effective cooperation;

1.9 **would stress** that, within the projects, the concept of common ownership is a key pre-condition for sustainable cooperation among devolved authorities.

## 2. The Committee of the Regions' recommendations

### THE COMMITTEE OF THE REGIONS

#### 2.1 *Key local and regional priorities and decision-making processes*

2.1.1 **calls on** the EU and Russia to work together at a devolved level on issues of common interest. Taking the letter of intent between the Committee of the Regions and Russia as a starting point, cooperation is possible on many fronts. Specific initiatives could be proposed in the fields of culture, social affairs, the regional economy, the environment, transport, agriculture, research and enterprise promotion. Broadly speaking, these cover a substantial part of devolved authorities' remit for local and regional development;

2.1.2 **considers** that health – and public health in particular – are key factors in strengthening society's growth potential and are thus an important part of local and regional authorities' sectoral responsibilities. Health is not specifically mentioned in the letter of intent but it does have a bearing on social policy and an impact – direct or indirect – on other sectors. As such, it is a significant element of those other sectors and helps secure and maintain stability within society;

2.1.3 **would like to see** the Committee of the Regions, with the practical support of the European Commission, in compliance with the Partnership and Cooperation Agreement (PCA) between the EU and Russia, and in cooperation with Russian local and regional authority representatives, work out a new instrument – a standard agreement in the form of a Memorandum of Understanding (MoU), complete with appropriate guidelines – which could be used to underpin specific cooperation agreements between local and regional authorities in the EU Member States and similar authorities across Russia. This offers local and regional authorities in the EU and Russia worthwhile and encouraging prospects for consolidating the key 'bottom-up' process and removing bureaucratic constraints;

2.1.4 **urges** devolved authorities in the EU and Russia to join forces in practical cooperative ventures, projects and partnerships in fields that build on the areas of cooperation set out in the letter of intent between the Committee of the Regions and Russia. The list of areas of cooperation is not exhaustive but can be expanded to reflect the circumstances of the relevant individual Russian or EU local authorities and regions;

2.1.5 **proposes** that all agreements should contain clear objectives, and guidelines for drawing up action plans and timetables. Funding principles should also be included as well as rules and deadlines for assessing the agreement;

2.1.6 **backs** moves to promote the exchange of information and best practice in areas of action that benefit society as a whole. The Committee of the Regions' Commission for External Relations would welcome regular consultations about Russia in order to review progress in cooperation and in relations between the EU and that country, focusing particularly on responsibilities that fall within local and regional authorities' remit;

2.1.7 **would welcome** the establishment of a permanent forum for regional and local politicians from the EU and Russia aimed at discussing issues of common interest, such as the prospects for the new EU neighbourhood policy at local and regional level, and at specific initiatives for devolved tiers of government, with a view to submitting proposals to the Commission and to the Russian government for enhanced future cooperation between the two sides. It points to the constructive experience gained with the EU-Russia industry round table set up in 1997;

2.1.8 **considers** that exchanges of experience and information between the Committee of the Regions and the European Economic and Social Committee can help engender better understanding between the EU and Russia on issues of common interest and broaden the scope for practical initiatives concerning Russia, possibly including workshops, seminars, meetings and conferences, since both parties are keen to help boost cooperation between the two sides;

## 2.2 *Interregional cooperation – now and in the future*

2.2.1 **calls attention** to the importance of the first phase of the new neighbourhood programme which is scheduled to run from 2004 to 2006 and which it is hoped will prove to be the way forward for more effective and more streamlined cross-border cooperation for the EU and Russia – and produce practical results. It therefore endorses the new TACIS Regional Cooperation Indicative Programme and the National Indicative Programme for Russia, which sets out the EU's response in more detail and highlights the objectives and priorities for the period 2004 to 2006;

2.2.2 **would welcome** a new, common neighbourhood and partnership instrument for 2007-2013 in order to promote ongoing interregional cooperation between the EU and neighbouring partners outside the Union, including common application deadlines and procedural and reporting arrangements;

2.2.3 **calls** for Russia to contribute to and take part in a common financing instrument based on joint initiatives and ownership so that both the EU and Russia recognise the advantage to be gained from enhanced cooperation;

2.2.4 **underscores** the importance of the local and regional-level twinning scheme for exchanging experience in specific fields;

2.2.5 **notes** the particular advantage to be gained by launching and developing cooperation in the fields of culture and education, which are largely predicated on the activities, traditions and cultural identity of people at local and regional level;

## 2.3 *The Northern Dimension in the EU and Russia – Kaliningrad, the northwest Russian regions and the Arctic Circle*

2.3.1 **stresses** that international relations between the EU and Russia impact first and foremost on the Russian regions directly bordering the EU. Northwest Russia and Kaliningrad are thus an integral part of the EU's Northern Dimension;

2.3.2 **notes** the importance of the Northern Dimension's Second Action Plan, under which any Northern Dimension stakeholder has the opportunity to join in practical projects, cooperative ventures and exchanges of best practice in specific areas outlined in the action plan. It is also important to provide easy access to funding to implement the substantive elements of the action plan if, as a geographical region, the Northern Dimension is to develop both socially and economically for the benefit of the EU as a whole;

2.3.3 **would draw attention** to the status of the Kaliningrad region as a special economic zone and at the same time point out the scope for cross-border cooperation with the countries directly bordering Kaliningrad and which therefore share the challenges and opportunities of the region;

2.3.4 **would also like to see** due account taken of projects between Kaliningrad and the EU in the funding arrangements for the Northern Dimension Action Plan so that a basis can be created for cross-border technical cooperation at local and regional level;

2.3.5 **proposes** that the EU and Russia focus on geographical areas within the Northern Dimension that are not readily accessible, that have a harsh climate and that are thus sometimes poorly served in terms of development, a sustainable environment, enterprise promotion, social services, health-care and education as a result of severe weather conditions, vast distances with little infrastructure and small population groups. The Committee would draw attention to the Arctic Window plan and relations among the sixteen countries and regions in the northwest Arctic and semi-Arctic areas around the Arctic Circle;

2.3.6 **would reiterate** that the Committee of the Regions naturally considers itself in a position to play a key role in setting up a unifying, coordinating, consultative body that brings together local and regional representatives from across the Northern Dimension region.

Brussels, 17 November 2004.

The President  
of the Committee of the Regions  
Peter STRAUB

*Appendix***Letter of intent****on cooperation between the Federation Council of the Federal Assembly of the Federation of Russia and the Committee of the Regions of the EU**

In the interests of strengthening relations between the Federation Council of the Federal Assembly of the Federation of Russia and the Committee of the Regions of the EU, we welcome the commitment of their presidents to developing dialogue in order to encourage an exchange of information on regional and local issues.

On behalf of the Federation Council of Russia and the Committee of the Regions of the EU, we recognise that the process of globalisation is creating a world which is increasingly open and accessible for all.

We are aware of the importance of a thorough knowledge of the characteristics and specific features of each party, and so recognise that good relations are important and necessary between the Council of the Federation of Russia and the Committee of the Regions of the EU.

In this spirit, we welcome a broad exchange of information to ensure that our citizens are more involved in decision-making at regional and local level. It is important to have a better knowledge of our partners.

We express our common determination to encourage the development of relations in the following key areas:

- culture;
- social life;
- regional economy;
- environment;
- rural and urban development;
- local and regional transport;
- agriculture;
- research;
- training of managers.

We undertake to strengthen ties between the Committee of the Regions of the EU and the Council of the Federation of Russia with a view to bringing the citizens of EU and the Federation of Russia closer together.

Moscow, 30 March 2001.

Committee of the Regions of the European Union

Jos CHABERT

President

Council of the Federation of Russia

Yegor STROEV

President

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**Opinion of the Committee of the Regions on the Communication from the Commission to the Council and the European Parliament European Action Plan for Organic Food and Farming**

(2005/C 71/04)

THE COMMITTEE OF THE REGIONS,

**Having regard to** the Communication from the Commission to the Council and the European Parliament *European Action Plan for Organic Food and Farming* (COM(2004) 415 final) and its annex the Commission Staff Working Paper *European Action Plan for Organic Food and Farming* (SEC(2004) 739);

**Having regard to** the decision of the European Commission of 5 July 2004 to consult it on this subject, under the first paragraph of Article 265 of the Treaty establishing the European Community;

**Having regard to** the decision of its President of 27 January 2004 to instruct its Commission for Sustainable Development to draw up an opinion on this subject;

**Having regard to** Council Regulation (EEC) No 2092/91 of 24 June 1991 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs<sup>(1)</sup> and the amendments hereto;

**Having regard to** the Commission's proposal for a Council Regulation on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (COM(2004) 490 final - 2004/0161(CNS));

**Having regard to** its opinion on the Communication from the Commission to the Council and the European Parliament: *Mid-Term Review of the Common Agricultural Policy* (COM(2002) 394 final) – CdR 188/2002 fin<sup>(2)</sup>;

**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 Directions towards sustainable agriculture (COM(1999) 22 final) - CdR 183/99 fin<sup>(3)</sup>;

**Having regard to** its draft opinion (CdR 251/2004 rev. 1) adopted on 20 September 2004 by its Commission for Sustainable Development (rapporteur: Mr Jyrki Myllyvirta, Mayor of Mikkeli (FI/EPP)),

Whereas:

- 1) organic food and farming play an increasingly important role in bringing agricultural production into line with the needs of the market, taking account of the wishes of people in the EU with regard to the achievement of a high standard of environmental conservation, protection of resources and animal welfare and strengthening sustainable development in Europe;
- 2) the Commission communication rightly emphasises the dual societal role of organic farming: on the one hand, it is an environmentally friendly and safe method of producing food and other agricultural products that responds to consumer concerns and is driven by market forces; on the other hand, it provides benefits to society by promoting, in particular, sustainable development, environmental protection and animal welfare;
- 3) special attention needs to be paid to securing the conditions for organic production under varying circumstances in the various regions of the Community. The standards for organic products must be reliable, uniform, clear and consistent with the principles of organic production, but at the same time they must offer real opportunities for production and processing in the future throughout the Community under different natural and market conditions.

**Unanimously adopted the following opinion at its 57<sup>th</sup> plenary session, held on 17 and 18 November 2004 in Brussels (meeting of 17 November):**

<sup>(1)</sup> OJ L 198, 22.7.1991, p.1

<sup>(2)</sup> OJ C 73, 26.3.2003, p.25

<sup>(3)</sup> OJ C 156, 6.6.2000, p.40

## 1. The Committee of the Regions' views

THE COMMITTEE OF THE REGIONS,

1.1 **notes** that the communication is a positive and welcome step forward in terms of recognising the value of organic production and improving the prerequisites for it in the European Union;

1.2 **commends** the fact that the communication has been drawn up with great care and in close cooperation with the interested parties;

1.3 **stresses** that organic production has significant local and regional effects and that local and regional authorities have a key role to play in implementing the objectives laid down in the communication;

1.4 **feels** that the communication is rather general in scope and that its objectives are modest in certain respects, since the share of organic production needs to be increased if significant environmental effects are to be achieved.

### *Market mechanisms*

THE COMMITTEE OF THE REGIONS

1.5 **emphasises** the importance of market promotion and improving consumer awareness of organic products and expects the Community to also participate in funding the campaigns conducted in this regard. Improving awareness of organic products is part of wider information and promotion activities aimed at raising people's awareness of the principles of sustainable development. The funding of campaigns must be organised in such a way that small producers and SMEs in the food sector also have a chance to participate in them;

1.6 **welcomes** the proposals for increasing the use of the EU organic logo, for the present alongside national and regional logos. It is essential that there be uniform and reliable criteria for the use of the EU logo on products from within and outside the EU. It should be possible to add to the EU organic logo information regarding the region of origin of the products;

1.7 **recognises** that the need to harmonise organic standards is crucial to the success of the Community's market promotion initiatives and endorses the communication's proposals in this regard. The proposals to complete the standards (for processed animal products, animal welfare, environmental standards etc) and establish harmonised standards for new product groups (aquaculture, organic wines) merit support;

1.8 **stresses** that the harmonisation of standards is essential for ensuring the free movement of goods in the internal

market. The dismantling of artificial trade barriers would help to promote a balance between supply and demand. On the one hand, the development of the sector is currently hampered in several markets by problems of raw material availability and, on the other hand, it is important from the viewpoint of more remote and sparsely populated production regions that there be no barriers to marketing products in areas where there is more demand;

1.9 **agrees** that the proposal to improve the collection of statistical data on organic farming is justified from the point of view of monitoring the development of the market.

### *International trade considerations*

THE COMMITTEE OF THE REGIONS,

1.10 **emphasises** that, as argued in the communication, there is also a case for promoting the removal of barriers to international trade in organic products. Free trade would guarantee adequate availability in areas where local supply is insufficient and also boost the use of environmentally friendly cultivation methods outside the Community. International trade is warranted where it is needed to achieve a scale of activity that is economically worthwhile. At the same time, it should be stressed that the principles of sustainable development, which lie at the heart of organic farming, speak in favour of strengthening local and regional production and marketing. When including third countries in the equivalency list, attention should be paid not only to the appropriate rules that have to be met for organic production but also to compliance with the other EU food production standards.

### *Community agricultural policy*

THE COMMITTEE OF THE REGIONS,

1.11 **notes** that promotion of organic farming should be given more prominence in both Community and Member States' agricultural policy. A larger share of Community and national funds granted for the support of more environmentally friendly agricultural production should be allocated to organic production than is currently the case. To maximise the positive environmental effects, organic farming should also be a viable alternative for farmers in cultivated areas which are best suited to intensive farming;

1.12 **stresses** that, instead of regional specialisation, support should be given to projects and initiatives which lead to better integration of organic crop production and livestock farming. In addition, efforts should be made to find ways of improving the prerequisites for organic livestock production;



1.13 **endorses** the proposals put forward in the communication for helping and encouraging national decision-makers to use different forms of support in the widest possible way. Studies show that organic businesses in rural areas often receive income from many different sources and that they are active in networks of operators in rural areas. Therefore it is important from the viewpoint of rural diversity and maintaining the vitality of rural areas that organic farming and production be given greater weight in funding under rural development programmes;

1.14 **concurs** with the communication that products which are labelled as containing genetically modified organisms (GMOs) may not be labelled as organic and that the thresholds for the accidental presence of GMOs in organic production must be same as the general labelling threshold. The general thresholds for seeds, which have still not been established, should be set at a level which can also be applied in organic production;

1.15 **believes** it important that, in the longer term, ways be considered as to how to incorporate the environmental costs of food production in the prices of products and thus strengthen the market position of environmentally friendly products from the region concerned.

#### *Research*

THE COMMITTEE OF THE REGIONS,

1.16 **highlights** the importance of research in solving problems encountered in the production and marketing of organic products in a sector which is still in its infancy. Research on topics specifically related to the organic sector should be funded separately according to their relevance and development objectives, both under national and EU-funded programmes;

1.17 **would like** to strengthen the capacity of regional research and educational establishments and advisory bodies dealing with the challenges of organic production. Their activities help to promote rural development more widely. Operators in the organic sector are mainly small producers or producer organisations whose own resources are not sufficient for them to gain a firm grasp of the complex issues at hand.

#### *Enforcement and inspection*

THE COMMITTEE OF THE REGIONS,

1.18 **is pleased** that the Action Plan deals thoroughly with enforcement and inspection and the need to develop the standards that underlie them. Standards and inspection are important because they underpin the integrity of organic products. Given that public funds are used to support the organic chain and the fact that consumers pay a premium for organic products, there must be assurance that products comply with organic rules throughout the Community;

1.19 **points out** that cumbersome controls are a major cost factor, particularly for small organic producers. Therefore inspection should be improved by introducing a risk-based approach which targets operators who present the highest risk. In view of the public good element of organic farming, there are grounds for using public funds to cover part of the costs arising from inspection and enforcement and, in particular, for making sure that the costs of enforcement and inspection do not act as a barrier to starting production.

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

2.1 **requests** that, in implementing the European Action Plan for Organic Food and Farming, particular attention be paid to securing the conditions for the pursuit of such activity throughout the EU and that implementation take place in close cooperation with Member States and local and regional authorities;

2.2 **considers** it essential that the implementation of the Community measures be coordinated with that of local and regional measures and that the Commission monitor the implementation of the Action Plan without placing an additional financial or administrative burden on the Member States and, where necessary, make new proposals;

2.3 **encourages** Member States to use rural development measures to promote markets for local and regional organic products;

2.4 **encourages** operators in the public sector and publicly funded operators, such as local and regional authorities, to promote organic products in, for example, schools, day care centres and other institutions.

Brussels, 17 November 2004

The President  
of the Committee of the Regions  
Peter STRAUB



## Opinion of the Committee of the Regions on the Green Paper on public-private partnerships and Community law on public contracts and concessions

(2005/C 71/05)

### THE COMMITTEE OF THE REGIONS

Having regard to the European Commission's Green Paper on public-private partnerships and Community law on public contracts and concessions (COM(2004) 327 final);

Having regard to the Commission's decision of 30 April 2004 to consult it on this subject, under the first paragraph of Article 265 of the Treaty establishing the European Community;

Having regard to the decision of its President of 26 May 2004 to instruct the Commission for Economic and Social Policy to draw up an opinion on this subject;

Having regard to its opinion on the Proposal for a Directive of the European Parliament and of the Council on the co-ordination of procedures for the award of public supply contracts, public service contracts and public works contracts and the Proposal for a Directive of the European Parliament and of the Council co-ordinating the procurement procedures of entities operating in the water, energy and transport sectors; (COM(2000) 275 final – 2000/0115 COD and COM(2000) 276 final – 2000/0117COD – CdR 312/2000 fin) <sup>(1)</sup>;

Having regard to its opinion on the Green Paper on Services of general interest in Europe (COM(2003) 270 final – CdR 149/2003 fin) <sup>(2)</sup>;

Having regard to its opinion on the Mid-term review of the Lisbon Strategy. Having regard to the Communication from the Commission on Strengthening the implementation of the European Employment Strategy. Having regard to the proposal for a Council Decision on Guidelines for the employment policies of the Member States; Having regard to the Council recommendations on the implementation of the Member States' employment policies; (COM(2004) 239 final – CdR 152/2004 fin);

Having regard to its draft opinion (CdR 239/2004 rev. 1) adopted on 4 October 2004 by the Commission for Economic and Social Policy (rapporteur: **Ms Segersten Larsson**, Chair of Värmland County Council Executive Committee (SE-EPP);

**adopted the following opinion at its 57<sup>th</sup> plenary session on 17 and 18 November 2004 (meeting of 17 November):**

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

characteristics of PPPs. The Green Paper also asks a number of questions, the answers to which are expected to be very important for the Commission's future work;

#### THE COMMITTEE OF THE REGIONS

1.1 **welcomes** the Commission's Green Paper on public private partnerships and EU law on public procurement and concessions, since cooperation between municipalities/regions and the business world has become increasingly important in the European Union. Growth, cohesion and competition issues can be tied in with one of the most important aspects of the Lisbon Strategy: improving the climate for the smooth operation of the Internal Market. At the same time, the Committee would highlight the considerable discrepancies between the Member States and between different action areas in terms of cooperation forms and the extent of these;

1.2 **notes** that the Green Paper contains no concrete proposals. It does, however, aim to show the extent to which Community rules apply to the phase of selection of the private partner and to the subsequent phase, with a view to identifying any uncertainties, and to analyse the extent to which the Community framework is suited to the imperatives and specific

1.3 **considers** that a public-private partnership cannot be seen as a purely technical, legal matter; it must be extended and illustrated from a political perspective;

1.4 **hopes** that all issues connected with partnerships, procurement and services of general interest will be addressed holistically;

1.5 **believes** that the local and regional authorities, i.e. those closest to citizens, are best placed to decide whether they should provide services themselves, contract them out or run them in cooperation with other partners. The Committee would stress the political assemblies' crucial role in assessing who is to run publicly funded services;

1.6 **takes the view** that the local and regional authorities are often best placed to assess how services should be funded;

<sup>(1)</sup> OJ C 144 of 16.05.2001, p. 23

<sup>(2)</sup> OJ C 73 of 23.3.2004, p. 7

1.7 would **emphasise** the different roles played by the municipalities and regions, since in addition to organising, managing and monitoring operations, they also run services in-house;

1.8 **does not believe** that partnerships should be seen as a miracle solution; the potential added value of a public-private partnership must be assessed on a project-to-project basis;

1.9 **agrees** with the Green Paper's assertion that the public partner must be able to define the objectives to be attained in terms of public interest, quality of services provided and pricing policy, and it takes responsibility for monitoring compliance with these objectives.

#### *Development of the public-private partnership*

#### THE COMMITTEE OF THE REGIONS

1.10 **notes** that 'partnership' has come to be interpreted much more broadly than originally intended;

1.11 **suggests** that 'public-private partnership' should in future be defined more restrictively, to denote extended relationships, joint risk-taking, and major financial commitment;

1.12 **considers** that it is, consequently, extremely important to better define the concept of public-private partnership, in order to provide for an appropriate debate regarding any future Community initiatives;

1.13 **observes** that partnership/cooperation is usually perceived as a wider phenomenon than just public-private partnership. Municipalities and regional authorities also work with many other players, such as other local and regional authorities, universities, trades unions, religious communities, associations, social and professional interest groups, voluntary organisations, and private individuals. These partners can also be expected to gain in importance in the future;

1.14 **notes** that traditional forms of procurement, in which the parties aim for closer cooperation and joint responsibility, are also sometimes referred to as public-private partnerships or 'contractual public-private partnerships';

1.15 **considers** that closer cooperation is also important in traditional procurement procedures, particularly during the implementation phase;

1.16 **points out** that, in a joint-partnership or 'institutional' public-private partnership, ultimate responsibility often lies with the public authority. The value-added results from more responsibility being shouldered by the private sector, and from joint-financing, new ideas and approaches, and the establishment of a long-term relationship;

1.17 **emphasises** that multiple controls on the provision of services of general economic interest, as well as on partnerships involving the public authorities already exist. It should not be forgotten that economic and political decisions are subject to a multiple democratic voting procedure and therefore to advance controls, and to scrutiny by their own supervisory bodies. All these guarantee qualified publicity.

## 2. The Committee of the Regions' recommendations

#### THE COMMITTEE OF THE REGIONS

2.1 **stresses** that EU Treaty principles on, for example, transparency, equal opportunities, proportionality and mutual recognition must underpin all the different types of partnership projects;

2.2 **does not consider** it appropriate to introduce any Community partnership legislation at this stage, since the notion of 'partnership' has not been clearly defined. The Committee does not believe that public-private partnerships can be incorporated into Community procurement directives, since these do not provide sufficient encouragement for initiative, risk-taking or flexibility. The regulatory framework is insufficiently flexible, since partnerships involve a more active role as a partner rather than as a traditional service provider. While the Commission does indeed seem to have taken on board some aspects of the Committee of the Regions' previous opinions, this is not sufficient;

2.3 **emphasises** the central role of local and regional authorities in defining, organising, funding and monitoring services of general interest;

2.4 **believes** that, with reference to their duty to guarantee access to services of general interest, public authorities should be free to choose and experiment with different models as long as certain principles such as transparency, equal treatment, proportionality and mutual recognition are complied with;

2.5 **considers** that the local and regional authorities are also best placed to decide service type, format and quality requirements, since they are closest to citizens. Moreover, the democratic procedures which the public authorities are subject to in such decisions ensure qualified supervision and transparency;

2.6 **considers** it important to re-emphasise that these authorities should be free to decide whether to provide services in-house, contract them out or run them in cooperation with other parties;

2.7 **stresses** the need for local and regional authorities to be able to develop other individual, flexible forms of cooperation;

2.8 **stresses** the need to focus more on the citizen, since services are provided for citizens;

2.9 **asserted** in its opinion on the Proposal for a Directive of the European Parliament and of the Council on the co-ordination of procedures for the award of public supply contracts, public service contracts and public works contracts, that public-private partnership projects must be flexible and generally accessible. It also highlighted the need for extensive dialogue between the purchaser and the supplier throughout the procurement procedure;

2.10 **noted** in the same opinion that 'it must be established that procurement by regional and local authorities from their own independent legal entities does not fall within the scope of the directives and must be regarded as production carried out under their own management';

2.11 **welcomes** the Green paper's assertion that 'Community law on public contracts and concessions is neutral as regards the choice exercised by Member States to provide a public service themselves or to entrust it to a third party';

2.12 **notes** that many countries are developing a kind of partnership in which individual citizens decide who is to provide the service. The public authority's role is more concerned with guaranteeing minimum quality levels and ensuring companies are bona fide. Current procurement rules take no account of these situations where citizens are important players and take the final decision regarding who is to provide the service;

2.13 **is as yet unable to say** whether Community legislation on service concessions should be introduced, because the expression 'partnership' has not been defined. The Committee does not believe that service concessions should come under Community procurement directives, since concessions require a more flexible procedure than procurement;

2.14 **notes** that current procurement legislation is still complicated and does not encourage flexibility or innovative ideas;

2.15 **stresses** the need for the decision to transfer a company from the public to the private sector to be an economic policy decision, and consequently, the exclusive competence of the Member States;

2.16 **hopes** that experience resulting from competitive dialogue will be taken on board before any further measures are proposed. The Committee would also point out that, in its opinion on procurement directives, it expressed reservations about this type of procurement and called instead for greater use to be made of negotiated procurement;

2.17 **hopes** that the Commission will clarify the legal situation in the light of the Teckal case, as it is interpreted differently in the Member States. The Committee does not believe that activities carried out by a wholly-owned public company should be governed by Community procurement legislation, as they are public-controlled and equivalent to in-house operations. In addition, the bulk of the work is carried out in conjunction with the public authorities that own it;

2.18 would **stress** the need for local/regional political consensus when concluding long-term agreements;

2.19 would **underline** the need to take account of democratic requirements, which must reflect citizens' wishes, in addition to the needs of competition;

2.20 **intends** to return to the matter once the expression 'partnership' has been defined;

2.21 finally, **would raise** some further questions:

- How is the democratic element to be safeguarded in partnership projects and procurement?
- What is the potential for citizens to exercise political authority?
- What economic latitude is available in long-term contracts?
- How can political freedom of action be ensured?
- How are changing needs and circumstances handled in long-term contracts?
- How will citizens be assured of operational transparency?
- Is there any assurance the authorities will be able to manage, monitor and guarantee high quality services for citizens?
- What is the impact and importance of the Structural Funds in developing public-private partnerships?

Brussels, 17 November 2004

The President  
of the Committee of the Regions  
Peter STRAUB

**Opinion of the Committee of the Regions on the Communication from the Commission on Science and Technology: the key to Europe's future Guidelines for future European policy to support research**

(2005/C 71/06)

THE COMMITTEE OF THE REGIONS,

Having regard to the European Commission Communication on *Science and Technology: the key to Europe's future - Guidelines for future European policy to support research* (COM(2004) 353 final);

Having regard to the decision of the European Commission of 17 June 2004 to consult it on this subject, under the first paragraph of Article 265 of the Treaty establishing the European Community;

Having regard to the decision of its President of 5 April 2004 to instruct its Commission for Culture and Education to draw up an Opinion on this subject;

Having regard to the Decision of the Lisbon European Council, which adopted the concept of European Research Area (ERA), thereby laying the foundation for common science and technology policy across the European Union;

Having regard to the Decision of the March 2002 Barcelona European Council where the European Union set itself the objective of increasing the European research effort to 3 % of the European Union's GDP by 2010;

Having regard to the European Commission Communication on *Europe and Basic Research* <sup>(1)</sup>;

Having regard to the European Commission Communication <sup>(2)</sup> on *The role of the universities in the Europe of knowledge* and the CoR Outlook Opinion on *The role of universities in local and regional development within the context of a Europe of knowledge* (CdR 89/2003 fin) <sup>(3)</sup>;

Having regard to the Report of a High-level Expert Panel chaired by Professor Ramon Marimon *Evaluation of the effectiveness of the New Instruments of Framework Programme VI* (21 June 2004);

Having regard to its Draft Opinion (CdR 194/2004 rev. 1) adopted on 22 September 2004 by its Commission for Culture and Education (rapporteur: Jyrki Myllyvirta, Mayor of Mikkeli, FI/EPP);

WHEREAS:

- 1) the overall goals of the Communication are absolutely necessary elements for implementing the Lisbon strategy of Europe. Increasing the European R&D investment to 3 % of the GDP, 2 % of that coming from private sources and all of it linked to research and development promoting the knowledge-based society and economy in Europe, is an ambitious objective which can only be met through shared commitment and coordinated actions of the Union and Member States;
- 2) the Communication adopts six major objectives for development. The objectives are:
  - creating European centres of excellence through collaboration between laboratories;
  - launching European technological initiatives;
  - stimulating creativity of basic research through competition between teams at the European level;
  - making Europe more attractive to the best researchers;
  - developing research infrastructure of European interest;
  - improving the coordination of national programmes;

<sup>(1)</sup> COM(2004) 9 final

<sup>(2)</sup> COM(2003) 58 final

<sup>(3)</sup> OJ C 73 of 23.3.2004, p. 22

The wider procedural proposals are related to:

- raising research performance throughout the Union, especially in the new Member States;
  - focusing the European Union's efforts on key topics and
  - doing better to do more;
- 3) the actions proposed in the Communication are not cohesion instruments as such, but they inevitably have an impact, either positive or negative, on cohesion. The knowledge-based industries are the driving force of development for the whole of Europe; getting these forces to promote cohesion targets is much more effective from the regional policy point of view than research policy leading to centralisation, which has to be compensated by increased regional policy subsidies and handouts;

**unanimously adopted the following opinion at its 57<sup>th</sup> plenary session, held on 17-18 November 2004 (meeting of 18 November):**

## 1. The Committee of the Regions' views

### THE COMMITTEE OF THE REGIONS

1.1 **welcomes** the Communication on *Science and Technology: the key to Europe's future - Guidelines for future European policy to support research* and considers it an utmost important starting point for increasing and improving European research for the success of the whole of Europe;

1.2 **agrees** with the European Commission that scientific research, technological development and innovation are at the heart of the knowledge-based economy, a key factor in growth, competitiveness of companies and employment and improving the quality of life for the EU citizen;

1.3 **reminds** us that in Europe, the growth and success of every region depends increasingly on the advancement of a knowledge-based economy;

1.4 **considers** that while the efforts in the field of research policy by the European Union have shown to be valuable and necessary, this approach now seems to fall short of today's needs;

1.5 **supports** the aim of investing 3 % of GDP in research and development. This absolutely necessary aim can be reached only through solid commitment of all the Member States into this aim. Quantitatively, the role of direct EU research funding can only be marginal. The EU measures can, however, contribute into and they are necessary for the strengthening of the commitment and for getting the maximum benefit out of the investment;

1.6 **supports** the proposal by the European Commission to double the Union research funding between 2007-2013. It is in the interest of the whole of Europe that this proposal is realised even if other parts of the budgetary plans for the period 2007-2013 would change;

1.7 **emphasises**, as the Commission, that the new member countries with their human and cultural resources are an extra motivation for improved action and increase of resources in research policy.

## THE EUROPEAN ADDED VALUE

### THE COMMITTEE OF THE REGIONS

1.8 **emphasises** that in the field of research policy the European added value is evident. It is created by:

- the possibility to build up the necessary critical mass in research subjects where the single countries are too small;
- better attracting top scientists; and
- the improved mobility of highly educated researchers and other experts;

1.9 **considers** that the research and development funding of the Union, including the new Framework Programme, must be dynamic and responsive to the needs of business, science and the community, in order to direct the research in fields where the impact on European growth, competitiveness of companies and employment is most evident;

1.10 **points out** that cities, local and regional authorities can in many positive ways contribute to the fulfilment of European added value. This includes regional innovation policies, technology centres, incubators, science parks and risk-capital funds, which all are taken well into consideration in the Communication. Local and regional authorities also have an important role to play in innovating in issues such as sustainable development within the community, through their close links with EU citizens;



1.11 **welcomes** the objective of developing the research infrastructure of European interest;

1.12 **welcomes** the aim to make the European Union's research policy more cost-effective;

1.13 **emphasises** that critical mass depends on the topic, the thematic area and the participants (see the Marimon report). The concept of 'one size fits all' should not be applied across all thematic areas and instruments;

1.14 **points out** that, in improving the coordination of national programmes, also regional research programmes and the impact of the programmes on regional development have to be taken into consideration;

1.15 **stresses** that small and medium size enterprises (SMEs), 99 % of all business enterprises, are providers of the most jobs and key actors in European innovation and regional development. The European research policy has to involve the SMEs and their research and development needs better than thus far;

1.16 **agrees** that researchers must be able to fully exploit the European research policy measures – including the possibility of projects of a smaller size – according to their interests and needs and **welcomes** the suggestion to create a more open mechanism of research funding;

1.17 **would like to see** more weight behind projects proposed by researchers on their own initiative based on the R&D needs of companies;

1.18 **emphasises** the contributing role of local and regional economic development policy and strategies. Usually, the cities, local authorities and regions, in cooperation with the universities and businesses in the area, coordinate the tools for local and regional economic development and the whole innovation infrastructure;

1.19 **considers** the EUREKA-method a good example of a scientifically oriented and ambitious research network where also SMEs have a low threshold to take part.

## THE DIVERSITY AND GEOGRAPHICAL DECENTRALISATION OF RESEARCH

### THE COMMITTEE OF THE REGIONS

1.20 **points out** that a main asset of Europe is the high educational level of a very large part of the population; in

order to exploit this fully, Europe must have a widely spread education and research infrastructure;

1.21 **requests** strong measures to enable also smaller institutions and public authorities to benefit from European research policy. The research and development world has become many-sided and versatile. The distinction between basic and applied research is becoming blurred. New knowledge can be produced in establishments of varying size and type. Even small institutions can produce knowledge of world-wide interest in narrow fields of expertise, especially if they collaborate with high-technology businesses;

1.22 **emphasises** that diversity, autonomy and geographical decentralisation of research are important factors in increasing its regional impact. Developing the administrative structures of cities and regional authorities is also a prerequisite for the successful spreading of innovations from research into business and public organisations. This is particularly important in the new Member States, where developing decentralised administrative structures, as well as strengthening local and regional government, are key factors in ensuring the establishment of sustainable development at local and regional level;

1.23 **points out** that there are different systems across Europe. Depending on the country, the roles of the cities, local authorities and regions are often crucial in organising, financing and developing higher education and research, and particularly in creating the innovative surroundings combining research, development, incubators and business environments, where the research results lead into new business activities, new jobs and improved well-being;

1.24 **believes** that the concept of 'centres of excellence' as proposed in the communication has to be implemented taking also into consideration highly specialized smaller centres that can be essential for the development of globally competitive business in narrow fields of production and can be a starting point for emerging new large-scale business;

1.25 **believes** that the same applies for the technology platforms; it is necessary to see the platforms as a vehicle to promote diverse high-tech business in various parts of Europe;

1.26 **welcomes** the complementary use of research funding and structural funds; the practical solutions have to be developed in the 'Convergence' Objective regions and within the 'Regional competitiveness and employment' Objective, with special emphasis on the new Member States;



1.27 **recommends** the 'Marie Curie' actions for making Europe more attractive to the top researchers be continued and strengthened. European research must be able to harness all of its potential to improve European competitiveness, young people, women, all regions and the benefits of increased cooperation with extra-European countries.

## TOWARDS THE SEVENTH FRAMEWORK PROGRAMME

### THE COMMITTEE OF THE REGIONS

1.28 **welcomes** the invitation presented at the end of the Communication to different stakeholders in and users of research in Europe to take part in the discussion process through which the seventh Framework Programme will be formulated;

1.29 **emphasises** also the possible positive role of different stakeholders and especially the role of local and regional authorities in the proposed European Research Council. The idea of a European Research Council, be it a Union agency or a different kind of structure, should be developed to have close contacts with the local and regional administration and the Committee of Regions. The European R&D finance should be directed on the basis of scientific excellence and of the potential of bringing new innovations to the commercial market and to meet society's needs. The CoR **believes** it is important that European regions and researchers who are not part of the teams that would be funded by the proposed European Research Council should also be able to benefit from the research results;

1.30 **supports** the proposed rationalisation and regrouping of the union activities to support research in SMEs and for

their benefit; for the development of risk-capital funds, science parks, incubators and regional innovation policies; for technology transfer and the management of intellectual property and patents. This proposal involves many DGs of the Commission and has to be prepared jointly – it is essential that also the Committee of Regions is closely involved.

## 2. The Committee of the Regions' recommendations

### THE COMMITTEE OF THE REGIONS

2.1 **recommends** that the aspect of promoting balanced regional development in Europe be included in the implementation of European research policy;

2.2 **emphasises** that the promotion of R&D has to be taken into consideration in the preparation of new structural fund programmes;

2.3 **emphasises** that the 'human dimension' and societal needs should be included in the new funding programme;

2.4 **underlines** the importance of research and innovation infrastructure, research centres, technology parks and centres of excellence including those of a smaller scale, keeping in mind their key role in the training of researchers and in the building of human capital locally but also to the benefit of wider regions;

2.5 **recommends** that the Union finance more research in entrepreneurship, regional innovation processes and commercialising research results in order to develop instruments for strengthening knowledge-based economy in different parts of the Union.

Brussels, 18 November 2004

The President  
of the Committee of the Regions  
Peter STRAUB

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**Opinion of the Committee of the Regions on the**

- **Communication from the Commission — Further integration of the European rail system: third railway package**
- **Proposal for a Directive of the European Parliament and of the Council amending Council Directive 91/440/EEC on the development of the Community's railways**
- **Proposal for a Directive of the European Parliament and of the Council on the certification of train crews operating locomotives and trains on the Community's rail network**
- **Proposal for a Regulation of the European Parliament and of the Council on international rail passengers' rights and obligations**
- **Proposal for a Regulation of the European Parliament and of the Council on compensation in cases of non-compliance with contractual quality requirements for rail freight services**

(2005/C 71/07)

THE COMMITTEE OF THE REGIONS,

**Having regard to** the Communication from the Commission – Further integration of the European rail system: third railway package – COM(2004) 140 final, the Proposal for a Directive of the European Parliament and of the Council amending Council Directive 91/440/EEC on the development of the Community's railways – COM(2004) 139 final – 2004/0047 (COD), the Proposal for a Directive of the European Parliament and of the Council on the certification of train crews operating locomotives and trains on the Community's rail network – COM(2004) 142 final – 2004/0048 (COD), the Proposal for a Regulation of the European Parliament and of the Council on international rail passengers' rights and obligations – COM(2004) 143 final – 2004/0049 (COD), and the Proposal for a Regulation of the European Parliament and of the Council on compensation in cases of non-compliance with contractual quality requirements for rail freight services – COM(2004) 144 final – 2004/0050 (COD);

**Having regard to** the decision of the Council of 28 April 2004 to consult it on this subject under the first paragraph of Article 265 and Article 71 of the Treaty establishing the European Community;

**Having regard to** the decision of its President of 19 June 2004 to instruct the Commission for Territorial Cohesion Policy to draw up an opinion on this subject;

**Having regard to** its earlier opinion on the Proposal for a Directive of the European Parliament and of the Council on the interoperability of the trans-European conventional rail system (COM(1999) 617 final - 1999/0252 COD) (CdR 94/2000 fin) <sup>(1)</sup>;

**Having regard to** its earlier opinion on the Communication from the Commission: Towards an integrated European railway area – (COM(2002) 18 final (the second railway package) (CdR 97/2002 fin) <sup>(2)</sup>;

**Having regard to** its earlier opinion on the White Paper: European transport policy for 2010: time to decide (COM(2001) 370 final) (CdR 54/2001 fin) <sup>(3)</sup>;

**Having regard to** its earlier opinion on the Proposal for a Regulation of the European Parliament and of the Council on the granting of Community financial assistance to improve the environmental performance of the freight transport system – Marco Polo (COM(2002) 54 final - 2002/0038 COD) (CdR103/2002 fin) <sup>(4)</sup>;

<sup>(1)</sup> OJ C 317 of 6.11.2000, p. 22

<sup>(2)</sup> OJ C 66 of 19.3.2003, p. 5

<sup>(3)</sup> OJ C 192 of 12.8.2002, p. 8

<sup>(4)</sup> OJ C 278 of 14.11.2002, p. 15

**Having regard to** its earlier opinion on Corridors and TEN-T: a lever for growth and vector of European cohesion and on the Communication from the Commission on the development of a Euro-Mediterranean transport network (COM(2003) 376 final) (CdR 291/2003 fin) <sup>(3)</sup>;

**Having regard to** its draft opinion (CdR 161/2004 rev. 2) adopted on 24 September 2004 by its Commission for Territorial Cohesion Policy (rapporteur: Mr Bernard Soulage, Vice-President of the Rhône Region (FR, PES));

Whereas:

- 1) The development of rail passenger and freight transport is a vital condition for building an integrated Europe, as well as an important source of economic growth,
- 2) Looking for an orderly way to open up rail transport markets would be an additional asset in the achievement of this development objective, particularly at international level,
- 3) Any move towards integrating and opening up markets must bear the following three concerns in mind: the quality of the service; the safety of the passengers and goods transported; and the rights of users and the areas served;

**unanimously adopted the following opinion at its 57<sup>th</sup> plenary session on 17 and 18 November 2004 (meeting of 17 November).**

## 1. Views of the Committee of the Regions

### *Towards the creation of an internal market in rail services*

Whilst the Committee finds the proposals acceptable in principle, there are many points which need to be clarified, both as regards the arrangements for action by the States and regional/local authorities concerned and the extent, scope and nature of the rules proposed by the Commission. The Committee of the Regions is anxious to ensure that the rail reform is implemented in a way that will improve rail services, thereby increasing the competitiveness of rail in comparison with other modes of transport and securing the economic viability of rail transport operators.

#### THE COMMITTEE OF THE REGIONS

1.1 **welcomes** the efforts made to promote and implement an integrated European railway area – a necessary precondition for renewing the dynamism of a mode of transport that is essential in terms of a sustainable transport policy in the European Union, as described in the White Paper;

1.2 **broadly supports** the Commission's efforts to further the creation of a true internal market in rail services, in terms of both passenger and freight transport, in accordance with the decisions of the European Parliament. The proposals put forward as part of the third railway package are designed to improve the quality of freight services and to gradually open up the passenger transport market throughout the EU, starting with international passenger services;

1.3 **considers** that in the field of international passenger transport, the development of high-speed services connecting

regions is an initiative to be encouraged with a view to sustainable development; however, this must be part of a scheme providing the regions with a high quality service based on the timetable frequencies;

1.4 **wishes** to encourage the development of cross-frontier services for the commuter market, which is far from negligible. It must be made easier for the regions concerned to reach agreements with one another to guarantee a high level of quality and the viability of services;

1.5 also **has major concerns** about regional planning and equal access to different regions. In this regard, it hopes that all necessary steps will be taken to ensure that the entry of new rail operators does not lead to the closure of non-profitable routes which are currently kept running by using tariff equalisation.

Two dangers can be identified:

- the first relates to peripheral or landlocked regions, which could find that they are excluded from these services if the operator alone has a say in defining their characteristics. In addition, some inter-regional routes that are not the subject of public service contracts could be undermined by international services using stops which generate the most traffic and hence the most profits;
- the second concerns the conditions for the application of the safeguard clause for links (especially regional ones) which are the subject of a public service contract;

<sup>(3)</sup> OJ C 109 of 30.4.2004, p. 10

1.6 **points out** that the question of rail safety is crucial, as is noted in the explanatory memorandum, and that the emergence of low-cost carriers must not be allowed to undermine safety requirements for users (training of drivers and licences, dilapidated state of rolling stock and maintenance rules). It is all the more important given that cabotage authorisation will lead to a mix of traffic, particularly on regional routes where public service contracts call for high levels of safety in most cases. Moreover, allowing cabotage will lead *de facto* to the liberalisation of some national segments of the rail market, and it is important to ensure that the opening up of the market to competition in this way does not weaken the economic viability of national routes that are not subject to public service contracts;

1.7 **confirms** its support for the procedures for assessing the reforms undertaken in the rail sector so as to ensure that they lead to improved service provision (levels of service provision, service quality, safety, cost). Seen in this light, the Committee wonders whether the proposed timetable is appropriate, as it allows no room for the all-important assessment of the previous reforms.

#### *Certification of train drivers on the Community's rail network*

#### THE COMMITTEE OF THE REGIONS

1.8 **endorses** the Commission initiative aimed at introducing a driver's certificate comprising two parts: 1) an EU licence valid throughout EU territory, issued by the national authority or an authorised agency and belonging to the driver; and 2) a harmonised complementary certificate which reflects the particular requirements of the authorised service and would have restricted validity and be issued by the railway company that employs the driver;

1.9 **notes** that these provisions were the subject of consultation between the partners (the Community of European Railways and the European Transport Workers' Federation) and guarantee the free movement of workers within the Community;

1.10 **affirms** that the definition of strict safety rules is an essential precondition in the light of the aim of achieving the interoperability of networks. The proposed harmonisation is a necessity given the wide variation in national laws on drivers' certification. The testing of physical and psychological fitness, regular check-ups, the monitoring of levels of competence and basic knowledge of a common language are essential guarantees for a high level of rail safety;

1.11 **supports** the gradual phasing-in of the new provisions, which initially will apply only to train drivers on international routes but will eventually be extended, after evaluation, to all train drivers.

#### *Rights and obligations of international rail passengers*

#### THE COMMITTEE OF THE REGIONS

1.12 **welcomes** the Commission initiative to lay down rules on the rights and obligations of international rail passengers, in line with those established in the air transport sector. This marks a step towards healthy competition between the various modes of transport;

1.13 **hopes** that the proposed measures are extended to States' internal cabotage services created within the framework of the current legislation;

1.14 **notes** that the users' and local community representatives have not been sufficiently taken into account in the procedures likely to be implemented.

#### *Compensation in cases of non-compliance with quality requirements for rail freight services*

#### THE COMMITTEE OF THE REGIONS

1.15 **notes** that rail freight's share of the market has declined as customers' expectations in terms of higher quality, more punctual deliveries, etc. have increased;

1.16 **considers** that measures to improve the quality of service delivered by railway undertakings are paramount and that without such measures rail freight will continue to decline;

1.17 **notes** the Commission's efforts to boost rail freight's share of the market under continuing difficult circumstances. Improving the quality of service provided by operators is certainly one way to gain customer loyalty and attract new customers;

1.18 **questions** whether the Commission should regulate this sector when operators have contractual relations with their customers in which quality requirements are part of the negotiated terms. The danger here is that regulation could be counter-productive, particularly if the quality requirements lead to higher service costs, while road transport remains free to fix mutually agreed requirements. This is an even more sensitive issue for rail operators in the new Member States, especially if the Commission does not regulate quality requirements on the same basis for all modes of transport.

## 2. Recommendations of the Committee of the Regions

### THE COMMITTEE OF THE REGIONS

2.1 **asks** that the proposed timetable be modified to leave room for the necessary evaluation of the earlier reforms and in particular so that this evaluation can take into account the changes required by these reforms in the new Member States and outlying regions;

2.2 **calls for** a more precise definition of international service by including the requirement that termini be located in at least one major urban centre in each of the countries covered by the international service. The definition of 'international passenger service' proposed in Article 1 of the draft Directive (COM(2004) 139 final) is limited to a single criterion, namely that 'the train crosses at least one border'. The simplicity of this definition could lead to deviant behaviour (*free riders*), since serving the first station across the border would be enough to qualify for the status of international service even though practically all turnover would be generated in just one country. Such a practice would lead de facto to the opening of the national market of the country concerned;

2.3 **asks** for the role of the States and local and regional authorities to be specified when defining the characteristics of the proposed international service (number of services, number of stops, frequency, periodicity, fares on national routes);

2.4 **suggests** that the wording of the draft directive should be made more specific, stipulating that cabotage services may be restricted by decision of the local or regional authority, as the organising authority for a route subject to a public service contract, or the regulatory body referred to in Article 30 of Directive 2001/14/EC;

2.5 **recommends** that the conditions governing the operation of international services should be defined to reflect the nature of the proposed services. The conditions regarding the viability of such services, the fares charged and levels of service

depend on the nature of the services to be provided. It is, for example, difficult, a priori, to imagine having the same rules for a cross-border service connecting two adjacent regions, a service on a high-speed route between, say, London and Marseille, a night service between Hamburg and Zurich and a seasonal service between Paris and Venice;

2.6 **suggests** that reference should be made to the impact that opening up the international rail services market would have on international coach routes, especially in terms of the freedom to set fares on these routes (do these companies also have the right to national cabotage?);

2.7 **insists** that it is necessary to clarify the conditions under which the new international rail services will or will not be able to set tariffs freely - particularly for cabotage customers - so as to prevent distortion of competition with national operators, when the latter do not have this freedom;

2.8 **suggests** that the length of operation of the new services should be fixed, in accordance with the return on investment. So as to avoid volatility in the provision of services in this area, it is important that guarantees be given to the parties involved;

2.9 **requests** that the harmonised complementary certificate for train crews require a command of the language of each country through which a route passes;

2.10 **insists** that the conditions for passenger compensation applicable to rail transport, particularly with regard to train delays, be identical to those applied in the air transport sector (duration and level of compensation);

2.11 **notes** that a growing number of local and regional authorities are concerned with these issues and so it is vital that their representatives are involved in all the State or Community bodies responsible for implementing these measures.

Brussels, 17 November 2004

The President  
of the Committee of the Regions  
Peter STRAUB



**Opinion of the Committee of the Regions on the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions eHealth — making healthcare better for European citizens: An action plan for a European eHealth Area**

(2005/C 71/08)

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 *eHealth – making healthcare better for European citizens: An action plan for a European e-Health Area* (COM(2004) 356 final),

Having regard to the decision of the European Commission of 30 April 2004 to consult it on this subject, under the first paragraph of Article 265 of the Treaty establishing the European Community,

Having regard to the decision of its President of 8 September 2004 to instruct its Commission for Culture and Education to draw up an Opinion on this subject,

Having regard to its Draft Opinion 256/2004 rev. 1 adopted on 22 September 2004 by its Commission for Culture and Education, (Rapporteur: Mr Olivier Bertrand, Maire de Saint-Silvain-Bellegarde (FR/EPP),

**unanimously adopted the following opinion at its 57<sup>th</sup> plenary session, held on 17-18 November 2004 (meeting of 17 November).**

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

### *Introduction*

1.1 e-Health, widely interpreted as in the Introduction to the Commission's Communication, has the potential to deliver improved healthcare, effectively and economically. However, the key to success will be securing the confidence of citizens that all aspects of e-Health that have implications for them, are designed giving first priority to their interests. The involvement of representatives of organisations representing patients and citizens, in the design of e-Health products, systems and services, will thus be very important. For systems designed for specific groups of patients representatives of the relevant patient support groups should be involved. The issue of confidentiality of personal medical records will be a major concern for citizens.

1.2 The designation '**citizen centred health service**' must be seen to apply in the practical implementation of policies and not merely as a description of intent in policy documents.

1.3 Experience of the introduction of e-Health systems has also clearly demonstrated the need to involve health professionals from the very outset of discussions on any e-Health project designed for their use.

1.4 The issue of quality assurance of (Webseal) validated e-Health information systems will also be of vital importance in

establishing and maintaining public confidence. Establishment of confidence should be recognised as a key issue in encouraging citizens to use sources that provide sound, balanced and impartial information and advice, instead of those that offer poor, or even dangerous, information, often for commercial purposes (<sup>1</sup>).

## **2. Challenges and Expectations facing Europe's Health Sectors and the Role of e-Health**

2.1 **Accessibility of services:** The Communication states that by 2051, nearly 40 % of the Union's population will be over 65. The younger segments of this age-group will be people who have lived and worked in an electronic environment, and are likely to be familiar and to be comfortable with e-Health provided the necessary quality controls have been in place throughout their experience. However in early years of the 21<sup>st</sup> century many of those in older age groups may have little experience of e-Health and some may lack IT skills necessary to gain maximum benefit from e-Health developments.

(<sup>1</sup>) A recent survey of 32 of the most popular alternative and complementary therapy websites, said to attract tens of thousands of 'visitors' each day, offered 118 different 'cures' for cancer, and 59 so-called preventative treatments, none of which could be demonstrated to have the effect claimed. And one fifth of the websites either actively or indirectly discouraged patients from using conventional treatments for cancer (study published in the Journal '*Annals of Oncology*', cited on BBC News 15 April 2004)

These are the very people who are most likely to require increasing access to healthcare services. Systems must be in place to ensure that their interests are not prejudiced. For some years there will be a need to provide other channels of communications for citizens to access services, for example by telephone. Printed information should also be available.

2.2 It is understood that a Committee convened under the auspices of DG Employment and Social Affairs is examining e-Health including the 'digital divide', urban and rural differences and questions about education and training for health professionals and citizens. Resolution of these issues is essential for successful implementation of e-Health.

2.3 **Technology infrastructure:** Reference is made in the Communication of the need for action on the 'roll out of broadband networks in telecommunications'. Some current broadband connections to the Internet in some geographical areas, are currently not sufficiently robust. This has important implications for hospitals and primary care professionals in such areas. Some facets of telemedicine such as the transmission of x-ray results, would be extremely uncertain, if not impossible. In the rural or sparsely populated areas where current broadband connections are relatively fragile, the distances between healthcare facilities are likely to be greater than in other areas, and thus the potential benefits of e-Health applications greater. In addition, if local healthcare providers wish to make information available on-line for local residents, it is essential that these residents have a reliable technological infrastructure to provide ready access.

2.4 There is therefore a need for investment in the necessary equipment to ensure that the appropriate technological infrastructure is in place for all concerned to have ready access to e-Health services. The investment could come from EU cohesion and/or structural funds and possibly through the European Investment Bank.

2.5 **Empowering health consumers - patients and healthy citizens:** Reference is made to the support people now need in managing their own diseases, risks and lifestyles and to the fact that people are looking proactively for information on their medical conditions. In brief, people nowadays wish to be partners with health professionals in decisions on treatment.

2.6 The use of medication is by far the most common intervention in the treatment of illness and to safeguard citizens against suffering serious medical incidents such as coronary heart disease or stroke. The published proposals for the 'road map' of the European Medicines Agency (EMA) indicates the wish to have an EMA database covering all the medicines for which marketing authorisations have been granted in any EU Member State and under the centralised procedure. This proposal should be implemented as soon as practicable. People who wish to seek information on medicines via the Internet

should be strongly encouraged to use the EMA database as their priority source because the information provided will be objective, reliable and scientifically proven.

2.7 All 'validated' websites on medicinal products and medical treatments should contain explicit advice to people to discuss the information, or any medication difficulties with their doctor or pharmacist. The 2003 WHO Report '*Adherence to long term therapies – evidence for action*', emphasised the major problems that arise through non-adherence to courses of long term medication for chronic medical conditions. This represents not only a waste of resources, but also a threat to the future health of the individual.

2.8 Recent research<sup>(2)</sup> has indicated that people often take positive decisions to cease taking their medicines, rather than just forgetting. The WHO report indicated that the reasons for non-adherence vary but often encountering an unpleasant side effect can be a trigger. This should be taken into account in all e-Health initiatives providing information about medicines and medical treatments, with a positive approach to encouraging adherence.

2.9 A conclusion in the WHO report was that 'increasing the effectiveness of adherence interventions may have a far greater impact on the health of the population than any improvements in specific medical treatments.' In time of pressure on resources for healthcare appropriate e-Health initiatives should focus on improving adherence.

2.10 The Communication emphasises the improvements in quality of care and patient safety that can result from access to 'comprehensive and secure electronic health records'. The dilemma is how to maintain patient confidence in the security and confidentiality of medical records, while at the same time ensuring that all necessary information is available to all health professionals providing health care to an individual, enabling them to provide the best possible quality of care. The problem of maintaining public confidence on confidentiality of data is likely to be made more difficult with increasing cross border provision of health care. The Communication opens up the possibility of a study specific to data protection in the context of e-Health. This should be a priority.

2.11 **Supporting health authorities and health managers:** The Communication suggests that e-Health opens up new opportunities for people who live in remote areas with only limited healthcare services, as well as 'marginalised groups' such as people with varying degrees of disability. This will only be true if the necessary investment is made in the technology infrastructure in remote areas, where needed. Training for citizens will also be vital.

<sup>(2)</sup> Barber N, Parsons J, Clifford S, Darracott R, Horne R, 'Patients' problems with new medication for chronic diseases' *Quality and Safety in Healthcare*, No 13, June 2004

### 3. State of Play

**3.1 Major challenges for wider implementation:** As the Communication makes clear, **interoperability** is a key issue that, if it is to be achieved, will require a much more positive approach than has been demonstrated up to now. **User-friendliness** should be less difficult to achieve, given the necessary investment. **Confidentiality and security** issues have already been covered in this Opinion.

**3.1.1** The provision within the general data protection directive to create a code of conduct for special domains such as health should be taken forward as a matter of urgency especially to address issues of confidentiality and security.

**3.1.2** Apart from assurance about confidentiality, citizens will be concerned to be confident that, if problems arise subsequent to cross-border provision of services, their rights to compensation will be protected. The discussions on the proposal for a Directive on Services in the Internal Market (COM(2004) 2 final) show that professional indemnity cover differs widely between Member States. Insurers have suggested that a requirement for compulsory professional indemnity cover for health professionals could make it impossible for some health professions to obtain affordable cover. They would then be faced with withdrawing services or acting illegally. This problem must be resolved if citizens are to have confidence in using cross border e-Health services.

**3.2** The question of the **qualifications** of those offering health services cross border is also an issue for citizens, as the debates on the proposed Directive on the mutual recognition of professional qualifications (COM(2002) 119 final), have clearly demonstrated. It is essential that e-health services are not used to bypass national regulations, which means that the regulatory authority in the host Member State must know that a service is being offered by a health professional from another Member State and be satisfied that the professional concerned is properly qualified, licensed to practise their profession, and not subject to disciplinary sanctions. Citizens want to be certain that health professionals from other Member States providing services to them meet the same standards required in their Member State. A solution must be found in the text of the Directive concerned, if citizens are to be confident using e-Health services.

**3.3** An example, which would help enhance security and legal certainty, would be the standardisation of e-prescription forms. There is currently no standardisation of format of paper prescriptions throughout the EU, which is an additional element leading to difficulties for patients seeking to have a prescription dispensed in a Member State other than the one in which it was issued. It seems appropriate therefore to investigate the standardisation of e-prescription formats while e-prescription services are in their infancy, rather than wait until systems are in place in individual Member States. EU represen-

tatives of the medical, dental and pharmaceutical professions should be invited to cooperate with such an initiative.

**3.4** As the Communication states, citizens prefer services tailored to their needs and requirements, while knowing that their right to privacy is protected. It is agreed that the take-up of e-Health systems and services would take place more rapidly were the needs and interests of the user communities (health professionals, patients and citizens) to be taken on board. Representatives of user groups should therefore be integrated into the development of e-Health projects. These communities will then be much more likely to be users and promoters of e-Health. The fact that each stakeholder group has the ability to veto implementation of any project if not considered beneficial should be uppermost in the mind of those planning these projects.

**3.5** The risk that the sections of the community mentioned under the subheading **Access for all to e-Health** might be excluded from the possibilities offered by e-Health, must be tackled as a priority issue if people in these already disadvantaged groups are not to feel further excluded. e-Health, appropriately provided, could be a major element in the delivery of improved health care to them;

### 4. Towards a European e-Health Area: Issues and Actions

**4.1** The objectives listed on issues raised earlier in the Communication will only be achieved if there is full commitment on the part of Member States, if all stakeholders, including representatives of patients, citizens and the professions are closely involved from the outset at both national and Community level, if there is careful and consistent monitoring of achievement of the targets set out and if there is the necessary investment in technology infrastructure. This will assist greatly in encouraging citizens to be confident in using e-Health services and in supporting their further development. Without their support little will be achieved.

The Committee of the Regions has not commented on every subheading in this section of the Communication.

**4.2 Issue 1: Addressing common challenges:** (Communication point 4.2.1) It is important that Member States and the Commission study the matter of the reimbursement of services provided cross border. It is possible to imagine a situation where a patient living close to a border might find that the nearest and apparently most suitable specialist for providing a second opinion, by teleconsultation - as set out in point 4.3.2 - is in a hospital in a Member State other than that of residence of the patient. For such people an absence of regulation on this matter would be difficult to understand, and any regulation introduced should be adapted to the regulations applying in each Member State.

4.2.1 (Communication point 4.2.3) In relation to mobility of patients, the achievement of a common approach to patient identifiers as envisaged in section 4.2.2.1 and confidence that strict controls are in place for assurance of the competence of health professionals, offering services in Member States, will be very important.

4.2.2 (Communication point 4.2.4) Here the Committee of the Regions reiterates its earlier statement that financial support from the Community will be essential in accelerating the roll out of broadband communications in some under-served localities.

4.2.3 (Communication point 4.2.7) The Commission's Communication states that certainty of e-Health product and service liability 'would be beneficial'. The Committee of the Regions considers that these words should be replaced by 'is essential' if patient confidence in using e-Health services is to be stimulated and maintained. An earlier date than 2009 should be set for the Commission, in collaboration with Member States, to provide the necessary framework for greater legal certainty in this regard.

#### 4.3 Issue 2: Pilot actions: accelerating beneficial implementation

4.3.1 (Communication point 4.3.1) The Committee of the Regions welcomes the co-funding by the Commission for the development of a set of quality criteria for health related websites. There should be long-term campaigns by governments and health professionals to encourage citizens to use sites with a 'webseal', in preference to others. Formal, constant monitoring of such sites to ensure continuing compliance with the quality criteria will be essential.

4.3.2 (Communication point 4.3.3) The Committee of the Regions welcomes the introduction of the European health insurance card. The proposed European health card should, on its introduction, incorporate the information on the health insurance card together with the essential health data should the patient so wish. The patient should then be able to permit individual health professionals to access relevant data to ensure that they can provide the best possible quality of healthcare. This again points to the importance of ensuring interoperability of electronic technology. Care should be taken that certain medical data that could be used for 'cherry picking' is not made available to health insurance organisations.

4.3.3 (Communication point 4.4.1) The establishment of the high level e-Health forum, to support the Commission will provide the ideal opportunity to establish confidence by confirming that all necessary stakeholders will be involved from the outset. It is understood that the forum will be able to set up working groups on specific topics, one of which should obviously be interoperability. There should be close liaison between the e-Health forum and the high level reflection group

on healthcare and medical services to be established under the Commission's Communication on patient mobility.

## 5. The Committee of the Regions' recommendations

THE COMMITTEE OF THE REGIONS,

5.1 **recommends** that financial support be provided via EU structural/cohesion funds or from the European Investment Bank to ensure the required effectiveness of broadband communications in localities that would otherwise be under-served;

5.2 **recommends** that the problem of maintaining public confidence on confidentiality of personal medical data, while explaining the benefits of the sharing of relevant information by health professionals involved in their treatment, be tackled as a priority by the Commission in cooperation with Member States;

5.3 **recommends** that representatives of patients, citizens and the health professions be involved from the outset in all proposals relating to e-Health projects;

5.4 **recommends** that positive steps be taken to ensure that the interests of those in older age groups and other vulnerable groups, are specifically addressed in relation to all e-Health projects and that for some years, alternative means for seeking information and advice are provided;

5.5 **recommends** that a much earlier date than 2009 be set for the Commission, in cooperation with Member States, to provide the necessary framework for greater legal certainty on e-Health product and service liability;

5.6 **recommends** that the issue of reimbursement for services provided cross border be given priority;

5.7 **recommends** that the benefits of using 'webseal' sites rather than others be promoted to citizens, on a long term basis, by governments of Member States and health professionals;

5.8 **recommends** that a system be established to ensure that 'webseal' sites consistently adhere to the established quality criteria;

5.9 **recommends** that e-Health services associated with treatments by medication, positively address the serious problem of non-adherence to medication regimens;

5.10 **recommends** that there be close liaison between the e-Health forum and the high level reflection group on healthcare and medical services to be established under the Commission's communication on patient mobility.

Brussels, 17 November 2004

The President  
of the Committee of the Regions  
Peter STRAUB



**Opinion of the Committee of the Regions on the Proposal for a Decision of the European Parliament and of the Council Creating the 'YOUTH IN ACTION' programme for the period 2007-2013**

(2005/C 71/09)

THE COMMITTEE OF THE REGIONS,

Having regard to the Proposal for a Decision of the European Parliament and of the Council – *Creating the 'YOUTH IN ACTION' programme for the period 2007-2013* (COM (2004) 471 final – 2004/0152 (COD));

Having regard to the decision of the European Commission of 14 July 2004 to consult it on this subject, under the first paragraph of Article 265 and Article 149 of the Treaty establishing the European Community;

Having regard to the decision of its President of 27 January 2004 to instruct its Commission for Culture and Education to draw up an opinion on this subject;

Having regard to its opinion on the working document of the European Commission entitled *Towards a European voluntary service for young people* (CdR 191/1996 fin) <sup>(1)</sup>;

Having regard to its opinion on the Community action programme on *European voluntary service for young people* <sup>(2)</sup> (CdR 86/1997 fin);

Having regard to its opinion on the *Proposal for a European Parliament and Council Decision establishing the second phase of the Community action programme in the field of education - SOCRATES; the Proposal for a Council Decision establishing the second phase of the Community vocational training action programme - LEONARDO DA VINCI; and the Proposal for a European Parliament and Council Decision establishing the Community action programme - YOUTH* <sup>(3)</sup> (CdR 226/1998 fin);

Having regard to its opinion on the Commission's Communication on the *Follow-up to the White Paper on a New Impetus for European Youth. Proposed common objectives for the participation and information of young people, in response to the Council Resolution of 27 June 2002 regarding the framework of European cooperation in the youth field* <sup>(4)</sup> (CdR 309/2003 fin);

Having regard to its opinion on the European Commission White Paper on *A new impetus for European youth* <sup>(5)</sup> (CdR 389/2001 fin);

Having regard to its opinion on the Proposal for a Decision of the European Parliament and of the Council on *A single framework for the transparency of qualifications and competences (Europass)* <sup>(6)</sup> (CdR 307/2003 fin);

Having regard to its global opinion on the follow-up to the *White Paper on a New Impetus for European Youth - Proposed common objectives for voluntary activities by young people* and *Proposed common objectives for greater understanding and knowledge of youth* <sup>(7)</sup> (CdR 192/2004 fin);

<sup>(1)</sup> OJ C 42 of 10.2.1997, p.1

<sup>(2)</sup> OJ C 244 of 11.8.1997, p.47 (COM(96) 610 final - 96/0318 (COD)).

<sup>(3)</sup> OJ C 51 of 22.2.1999, p.77 (COM(98) 329 final, COM(98) 330 final and COM(98) 331 final).

<sup>(4)</sup> OJ C 22 of 24.1.2001, p.7 (COM(2003) 184 final).

<sup>(5)</sup> OJ C 373 of 2.12.1998, p.20 (COM(2001) 681 final).

<sup>(6)</sup> (COM(2003) 796 final).

<sup>(7)</sup> (COM(2004) 336 final and COM(2004) 337 final).



Having regard to Decision No. 1031/2000/EC of the European Parliament and of the Council of 13 April 2000 establishing the 'Youth' Community action programme <sup>(8)</sup>;

Having regard to Decision No. 790/2004/EC of the European Parliament and of the Council of 21 April 2004 establishing a Community action programme to promote bodies active at European level in the field of youth <sup>(9)</sup>;

Having regard to the resolution of the Council and of the representatives of the Governments of the Member States, meeting within the Council of 27 June 2002 regarding the framework of European cooperation in the youth field <sup>(10)</sup>;

Having regard to the Communication from the Commission to the Council on the *Follow-up to the White Paper on a New Impetus for European Youth. Proposed common objectives for the participation and information of young people, in response to the Council Resolution of 27 June 2002 regarding the framework of European cooperation in the youth field* (COM(2003) 184 final);

Having regard to the Council resolution of 25 November 2003 on common objectives for participation by and information for young people <sup>(11)</sup>;

Having regard to the resolutions of the Council and of the Ministers for Youth meeting within the Council on youth participation <sup>(12)</sup>, on the non-formal education dimension of sporting activities in the European Community youth programmes <sup>(13)</sup>, on the social inclusion of young people <sup>(14)</sup> and on promoting young people's initiative, enterprise and creativity <sup>(15)</sup>;

Having regard to the Communication from the Commission to the Council and the European Parliament on *A European Voluntary Service for young people* (COM(96) 610 final - 96/0318 (COD));

Having regard to the recommendation of the European Parliament and of the Council of 10 July 2001 on mobility within the Community of students, persons undergoing training, volunteers, teachers and trainers <sup>(16)</sup>;

Having regard to the report from the Commission entitled *Interim Evaluation of the Youth programme 2000 – 2006 (for the period 2000 - 2003)* (COM(2004) 158 final);

Having regard to the White Paper on European governance (COM(2001) 428 final);

Having regard to Articles 13 and 149 of the Treaty on European Union and the Treaty establishing the European Community;

Having regard to its draft opinion CdR 270/2004 Rev.1 adopted on 22 September 2004 by its Commission for Culture and Education (Rapporteur: **Mr Alvaro Ancisi**, Member of the Municipal Council of Ravenna (IT/EPP);

**adopted the following opinion at its 57<sup>th</sup> plenary session, held on 17-18 November 2004 (meeting of 17 November).**

<sup>(8)</sup> OJ L 117 of 18.5.2000, p. 1.

<sup>(9)</sup> OJ L 138 of 30.4.2004, p. 24.

<sup>(10)</sup> OJ C 168 of 13.7.2002, p.2

<sup>(11)</sup> OJ C 295 of 5.12.2003, p.6

<sup>(12)</sup> OJ C 42 of 17.2.1999, p.1

<sup>(13)</sup> OJ C 8 of 12.1.2000 p.5

<sup>(14)</sup> OJ C 374 of 28.12.2000, p.5

<sup>(15)</sup> OJ C 196 of 12.7.2001, p.2

<sup>(16)</sup> OJ C 613 of .... 2001

## 1. The Committee of the Regions' views

### THE COMMITTEE OF THE REGIONS

1.1 **believes** that promoting European citizenship and including young people in society are top political priorities for the Committee; that it is at local and regional level that young people express active citizenship in practice; and that the proposal is linked to the EDUC commission's priorities (point 1.2 of the EDUC Commission work programme for 2004);

1.2 **is therefore aware** that young people's active citizenship, their sense of European belonging, and their growing sense of solidarity and mutual understanding are essential for the social cohesion of the Union and for peace;

1.3 **supports** the five areas of actions identified by the Commission, and particularly those on 'Youth for Europe' and 'European voluntary service', as these may influence, and have a multiplier effect on, national youth policies;

1.4 especially **welcomes** the 'Youth of the World' action programme which extends opportunities for exchanges and voluntary work to neighbouring countries of the enlarged Union; also welcomes actions 4 and 5 for identifying support systems to foster cooperation between youth workers, civil society organisations, administrations and policymakers working on youth issues;

1.5 **concurs** with the decision to take account of demographic, economic and socio-cultural change and to widen the programme's target audience by extending it to the 13–30 age group rather than the 15–25 group;

1.6 **welcomes** the open method of coordination adopted and the principle that EU policies on youth issues should complement national policies, **on condition that** local and regional authorities are fully involved, that their fundamental role in ensuring the success of the programme is fully exploited and that the method is guided by the principles of subsidiarity, proximity and proportionality;

1.7 **recognises** that participating countries need to adopt suitable measures to tackle mobility problems so that participants can benefit fully. Suitable instruments must also be adopted at national and European level to ensure that the young people participating in the programme receive recognition for the voluntary work carried out and the non-formal and informal training received. Integrating the 'Youth' programme with other Community action programmes would be helpful here.

1.8 **stresses** that the particular national circumstances of each country must be taken into account in the implementation of the programme. It should be possible to allocate funds for activities which fall naturally within the remit of local authorities. Similarly, it should be possible to support local activities which have already been tried and tested;

1.9 **notes** that the introduction and annexes to the proposal provide for financing of partnerships with regional and local authorities, with the aim of developing, in the long term, projects which combine several of the programme's measures, with the funding being used for coordination projects and activities; and notes that partnerships with local and regional authorities are also provided for in relation to the action concerning youth workers and support systems. **However, the Committee points out** that these provisions are not clearly incorporated into the text of the decision itself.

## 2. The Committee of the Regions' recommendations

### THE COMMITTEE OF THE REGIONS

a) believes it is important **to identify new instruments to simplify the programme and make it more flexible**, make procedures transparent and ensure that programme users have easy access to information, for example by exploring possibilities for greater decentralisation of structures;

b) believes that for the programme to be successful, **the role of local and regional authorities** should be more fully exploited, enabling young people to become fully involved in active citizenship, in the political and day-to-day life of their community, in voluntary work and in building a sense of solidarity;

c) emphasises that information on the programme can be most effectively guaranteed at regional and local level, not least for disadvantaged young people. The regional and local level is also the ideal environment to trigger new initiatives, promote the growth of youth NGOs and their planning capacity at European level, and to experiment and exchange best practice;

d) believes that the following **three key points**, which emerged clearly from the interim evaluation of the programme and are being addressed by the Commission, should be monitored constantly:

— the lack of legislation on **voluntary work** in many European countries to protect the rights of volunteers and recognise the special nature of their work;

- the problems faced by participants as regards **mobility**, and their legal, social and health protection rights, particularly in partner countries;
  - the lack of suitable instruments, at national and European level, that recognise the **non-formal and informal education** received by young people participating in the programme's actions;
- e) highlights the need to support NGOs that are active at European level, and the European Youth Forum; but emphasises the equally important need to support **national forums** and link them in networks, to promote opportunities for young people's local initiatives and for the small associations that promote European projects locally.

#### Recommendation 1

##### Article 3(5)

Text of the Commission proposal	CoR Amendment
In the context of the general objective to promote European cooperation in youth policies	In the context of the general objective to promote European cooperation in youth policies, <u>particularly at regional and local level</u>

#### Reason

The amendment takes account of the fact that it is at local community level that good practices promoting young people's active citizenship can be developed, encouraging them to play a part in the life of their community, in the mechanisms of representative democracy and in learning to participate.

#### Recommendation 2

##### Article 8(2)

Text of the Commission proposal	CoR Amendment
The Commission and the participating countries shall take appropriate measures to develop structures at European, national and, if necessary, regional or local level to achieve the objectives of the programme and to derive the greatest benefit from the actions of the programme.	The Commission and the participating countries shall take appropriate measures to develop structures at European, national and, <del>if necessary,</del> regional or local level to achieve the objectives of the programme and to derive the greatest benefit from the actions of the programme.

#### Reason

To achieve the programme's objectives there needs to be widespread access to information on the opportunities that it offers for both young people and youth workers. It is also important to support NGO projects at regional and local level and publicise the measures that support young people's initiatives.

## Recommendation 3

## Article 8(3)

Text of the Commission proposal	CoR Amendment
The Commission and the participating countries shall take appropriate measures in order to promote the recognition of non-formal and informal education for young people, in particular via the issue of a national or European-level document or certificate recognising, in particular, the experience gained by the beneficiaries and attesting to the direct participation of the young people or youth workers in an action under the programme.	The Commission and the participating countries shall take appropriate measures in order to promote the recognition of non-formal and informal education for young people, in particular via the issue of a national or European-level document or certificate recognising, in particular, the experience gained by the beneficiaries and attesting to the direct participation of the young people or youth workers in an action under the programme or in a similar action that has gained European recognition. <u>This objective may be strengthened by complementarity with other Community actions as stipulated in Article 11.</u>

## Reason

To obtain recognition of non-formal or informal competences gained by participating in voluntary work, solidarity activities and cultural exchanges, these activities must link up with other fields of Community action such as education, training and culture as laid down in Article 11, and with national policies and instruments as laid down in Article 12.

## Recommendation 4

## Article 8(6)(b)

Text of the Commission proposal	CoR Amendment
	6 (b) (bis) <u>may provide that national agencies decentralise some of their responsibilities at regional and local level</u>

## Reason

The decentralisation of some functions of national agencies at regional and local level can secure greater access and proximity to those benefiting from the programmes. This could be especially useful in helping small NGOs, as regards information, promotion, the bidding phase and project assessment, and also for reaching young people with fewer opportunities.

## Recommendation 5

## Article 12(1)

Text of the Commission proposal	CoR Amendment
The participating countries may be awarded a European label for national or regional actions similar to those in Article 4.	The participating countries may be awarded a European label for national, <del>or</del> regional <u>or local</u> actions similar to those in Article 4.

## Reason

Young people's first steps in democratic life and voluntary work are mainly made at local authority level. It is here also that non-formal and informal learning settings are developed.

## Recommendation 6

## Article 4(4)

Draft opinion	Amendment
<b>4) Youth workers and support systems</b>  The aim of this action is to support bodies active at European level in the field of youth, in particular the operation of youth NGOs, their networking, the exchange, training and networking of youth workers, encouraging innovation and quality, providing young people with information and developing the structures and activities needed for the programme to meet these goals.	<b>4) Youth workers and support systems</b>  The aim of this action is to support bodies active at European level in the field of youth, in particular the operation of youth NGOs, their networking, the exchange, training and networking of youth workers, encouraging innovation and quality, providing young people with information and developing the structures and activities needed for the programme to meet these goals; <u>and to promote partnerships with regional and local authorities.</u>

## Reason

To emphasise in the main body of the decision, too, the goal of promoting partnerships with regional and local authorities, which is already mentioned in the introduction and annexes with reference to Action 4.

Brussels, 17 November 2004.

The President  
of the Committee of the Regions  
Peter STRAUB



**Opinion of the Committee of the Regions on the Communication from the Commission — A stronger partnership for the outermost regions**

(2005/C 71/10)

THE COMMITTEE OF THE REGIONS,

**Having regard to** the Communication from the Commission: A stronger partnership for the outermost regions - COM(2004) 343 final;

**Having regard to** the decision of the European Commission of 27 May 2004 to consult it on this subject under the first paragraph of Article 265 of the Treaty establishing the European Communities;

**Having regard to** the decision of its Bureau of 10 February 2004 to instruct its Commission for Territorial Cohesion Policy to draw up an opinion on this subject;

**Having regard to** Article 299(2) of the EC Treaty;

**Having regard to** Articles III-330 and 56(3)(a) of the draft Treaty establishing a Constitution for Europe;

**Having regard to** the Commission report on the measures to implement Article 299(2). The outermost regions of the European Union <sup>(1)</sup>;

**Having regard to** its opinion (CdR 440/2000 fin) on The outermost regions of the EU and implementation of Article 299 <sup>(2)</sup>;

**Having regard to** the conclusions of the Seville and Brussels European Councils of 21 and 22 June 2002, and 17 and 18 June 2004 respectively;

**Having regard to** the joint memorandum from Spain, France, Portugal and from the outermost regions, of 2 June 2003;

**Having regard to** the final declarations of the Conferences of Presidents of Ponta Delgada, of 2 September 2004; of Martinique, of 30 October 2003; of La Palma, of 15 October 2002; of Lanzarote, of 25 September 2001, and of Funchal, of 31 March 2000;

**Having regard to** the European Parliament Resolution on the Commission Communication on the third report on economic and social cohesion <sup>(3)</sup>;

**Having regard to** its opinion on the third report on economic and social cohesion (CdR 120/2004 fin) <sup>(4)</sup>;

**Having regard to** the European Commission report on A stronger partnership strengthened for the outermost regions: assessment and prospects, SEC(2004) 1030 final;

**Having regard to** its draft opinion (CdR 61/2004 rev. 1) adopted on 24 September 2004 by its Commission for Territorial Cohesion Policy (rapporteur: Mr Adan Martin Menis, President of the Canary Islands Regional Government (ES/ELDR)).

<sup>(1)</sup> COM(2000) 147 final, of 14.3.2000

<sup>(2)</sup> OJ C 144, 16.5.2001, p. 11

<sup>(3)</sup> Text adopted by the EP on 22.4.2004

<sup>(4)</sup> Text adopted by the CoR on 17.6.2004

Whereas:

- 1) the seven outermost regions – the Azores, the Canary Islands, Guadeloupe, French Guyana, Madeira, Martinique and Réunion – are full members of the European Union but also find themselves in a unique and special situation quite different to that of other regions within the Community;
- 2) this situation is characterised by the permanence and combination of a series of handicaps, in particular their remoteness, small size and economic dependence on a few products, which are the causes of the isolation and vulnerability afflicting these regions, as recognised in Article 299(2) of the EC Treaty;
- 3) these factors result in additional costs and present particular obstacles to the growth, convergence and economic sustainability of these regions, which prevents them from participating fully in the dynamics of the internal market, limits the opportunities available to their residents and reduces the competitiveness of their firms;
- 4) owing to their geographical location, the outermost regions could become strategically important platforms on which to develop the role that the European Union wishes to play in the world;
- 5) these factors fully justify special treatment in the implementation of Community policies, so that the specific needs of these regions can be met and their capacity for locally-generated development increased;
- 6) support should thus be given to the calls made by the outermost regions and the national authorities concerned for an overall and coherent strategy to be implemented for these regions and for it to be provided with the necessary resources, resulting in a genuine Community policy for the outermost regions;

**adopted the following opinion at its 57<sup>th</sup> plenary session held on 17 and 18 November 2004 (meeting of 18 November).**

## 1. General comments

— to take account of the geographical environment of the outermost regions in the context of trade and cooperation policy and the agreements with neighbouring countries;

*The specific treatment of the outermost regions: broadly positive but with much still to be done*

### THE COMMITTEE OF THE REGIONS

1.1 **welcomes** the fact that, since 1986, the European Commission has taken the initiative of establishing an appropriate framework for implementing Community legislation and the common policies on these regions on the basis of the Programmes of Options specific to the remote and insular nature of the outermost regions (POSEI);

1.2 **recalls** that the adoption of a specific article in the Treaty (Article 299(2)), to take account of the situation of the Union's outermost regions addressed a series of specific aims, namely:

- to confirm the unique nature of the outermost regions and the need to mainstream this into all the Union's policies, in particular by maintaining the priority assistance granted under the structural policy for economic and social cohesion;
- to adapt Community policies to the true situation in the regions by implementing specific measures and by laying down special conditions for the application of the Treaty when necessary for the development of these regions;

1.3 **considers** that these objectives remain entirely valid and that, far from having run their course, require ongoing action by the Union. Their importance is demonstrated by the fact that the status of the outermost regions has been enshrined in Article III-330 of the draft European Constitutional Treaty;

1.4 **recalls**, therefore, the satisfaction expressed by the Committee at the adoption of the European Commission report of 14 March 2000, on measures to implement Article 299(2) of the Treaty, which sought to ensure a 'quantum leap' in the Community's approach to the outermost regions and which would launch a crucial new stage in defining an overall and coherent policy for the sustainable development of the outermost regions;

1.5 **considers** the measures adopted under the aforementioned report of 14 March 2000 to have been broadly positive, but wishes to point out that the enlarged European Union currently stands at a crucial point in its integration process and faces a number of major challenges which require fundamental changes to be made in the Institutions, in Community policies and in the European economy;

1.6 **believes** that, despite the positive aspects that have been highlighted, these changes demonstrate the need to move beyond the current approach and to take Community policy on the outermost regions a stage further by defining a suitable framework for these regions in the new European context; a framework that will ensure their full participation in the new Europe;

1.7 consequently **thanks** the European Council for having always taken into account and supported the EU's outermost regions; the Committee recalls that the conclusions of the Seville European Council of June 2002 set out the need to press ahead with the implementation of Article 299(2) of the Treaty and to submit suitable proposals for their special needs to be taken into account through the various common policies, in particular transport policy and in the reform of certain policies, in particular regional policy; the Committee would also like to take this opportunity to highlight the commitment given by the Commission to submit a new report on these regions based on a global, coherent approach to the special characteristics of these regions and to ways of addressing them;

1.8 thus **expresses** its satisfaction at the adoption, on 26 May 2004, of the Commission Communication *A stronger partnership for the outermost regions* and of the Commission report *A stronger partnership strengthened for the outermost regions: assessment and prospects*, on 6 August 2004. It notes the Union's desire to meet the specific needs of the regions and in particular its recognition of the unique situation of the outermost regions, which fully justifies special treatment in the various Community policies.

*Towards an overall and coherent development policy for the outermost regions*

#### THE COMMITTEE OF THE REGIONS

1.9 **congratulates** the European Commission first of all on its proposal to consolidate its cooperation relations with the outermost regions and its Conference of Presidents, which demonstrates its willingness to incorporate the regional dimension into the process of Community integration;

1.10 **notes** the progress made by the Commission on understanding the complex set of issues affecting the outermost regions. It endorses the Commission's view that in terms of development and integration the outermost regions still lag behind other European regions, and that some Community policies drawn up with an overall EU picture in mind are inadequate, since they fail to take account of the specific characteristics of the outermost regions;

1.11 **notes** that European integration is based, amongst other things, on respect for diversity and for the specific circumstances of all its territories as a means of achieving the greatest progress for the Union. In particular, the CdR would

support a strategy being drawn up for regions facing geographical disadvantages, which identifies their particular features and the appropriate instruments for addressing these problems;

1.12 **welcomes** the three priorities identified by the Commission – competitiveness, access and compensating for other constraints, and regional integration – with a view to shaping the Community's strategy for the growth and convergence of the outermost regions;

1.13 **supports** the European Commission's intention to undertake further work on identifying and assessing the additional costs borne by the outermost regions, in order to deal more effectively with all the handicaps arising from this situation;

1.14 **notes**, however, that the Commission proposal only partially fulfils the mandate given at the Seville European Council and the needs expressed by the regions and their States;

1.15 **emphasises**, in particular, that the Commission's assessment has not resulted in a genuinely cross-sectoral strategy for the outermost regions; a strategy that will mobilise all Community policies and their resources in order to address the unique situation of these regions in an appropriate manner;

1.16 **regrets** the fact that despite the willingness expressed by the European Commission to implement the priorities it has set out by means of both the cohesion policy and other Community policies, the Commission does not adequately specify the resources that it intends to provide under these other policies, postponing this for later decisions or making it conditional on further studies;

1.17 **notes** that the European Commission has proposed combining the application of the general cohesion policy framework to the outermost regions with the creation of two specific instruments: a programme of compensation for the particular constraints affecting the outermost regions and a Wider Neighbourhood Action Plan;

1.18 **welcomes** the creation of the aforementioned specific instruments, intended solely for the outermost regions and which seek to offset the handicaps arising from the special situation of those regions. It notes, however, the lack of real detail as regards the financial resources allocated to these measures;

1.19 **regrets** the fact that the Commission has chosen not to include all of these regions in the future convergence objective and reiterates that automatic eligibility for this objective is the most appropriate way of addressing the structural handicaps of the outermost regions and of ensuring that these regions continue to be treated even-handedly;

1.20 **insists** that the handicaps suffered by the outermost regions are permanent and common to all of them, regardless of their per capita GDP and recalls that the problems facing these regions cannot simply be reduced to the matter of GDP; instead, they represent a complex structural situation that profoundly affects the citizens of these regions and the competitiveness of their firms;

1.21 **notes** that all the outermost regions, including those where per capita GDP stands at 75 % of the Community average, still suffer from a lack of basic infrastructures and from poor conditions for convergence and competitiveness, which are necessary if the objectives of the Lisbon and Gothenburg strategies are to be met. The Committee considers that they will not be able to pursue their convergence process unless there is continuity in the actions undertaken under European regional policy from 2006 onwards, in an overall framework adapted to their specific characteristics;

1.22 **recalls** that many of the opportunities for growth, diversification and increased productivity available to the outermost regions centre on a few traditional sectors which present real comparative advantages, on tourism, and on seeking other alternative forms of production. The Committee therefore believes that an effective strategy for modernisation, innovation and development in the outermost regions must take account of these activities;

1.23 **welcomes** the fact that under the new programmes for 'European territorial cooperation' the outermost regions will be eligible not only for transnational cooperation, but also for cross-border cooperation. This is crucial to fulfilling the aim of integrating the outermost regions into their geographical environment, as the Commission itself acknowledges;

1.24 **welcomes** the priority attached to improving relations between the outermost regions and neighbouring third countries and to establishing a wider neighbourhood action plan to assist the creation of an area of economic, social and cultural growth and integration in these regions at the EU's borders, although it regrets that the financial resources allocated to this plan are not detailed;

1.25 **considers** that implementing a neighbourhood policy for the outermost regions requires that adequate financial resources be put in place so that these regions can play their rightful role as the EU's active border and positively and meaningfully complement Community action on combating poverty and on protecting democratic values, respect for human rights and the principles of the rule of law in their neighbouring countries;

1.26 **takes the view**, however, that in order to achieve these objectives, coordination is needed that is effective and

consistent with the EU's external policy and development cooperation instruments, primarily the provisions of the Cotonou Agreement, the Meda Programme and the ALA, and with all Community initiatives and programmes that might be undertaken with these regions in future;

1.27 **expresses** its satisfaction at the Commission's intention to undertake an in-depth study of how services of general interest work in the outermost regions and to have a working group draw up any relevant suggestions;

1.28 **welcomes** the Commission's intention to take account of the specific characteristics of the outermost regions in the field of State aid;

1.29 **states** that regulations governing State aid, which were designed to support and safeguard the workings of the internal market, cannot be applied indiscriminately to aid granted to firms located in these regions which, as the Commission itself acknowledges, do not reap all the benefits of this single market;

1.30 **regrets**, consequently, that the Commission has not chosen to include in Article 87(3)(a) all the outermost regions, including those whose GDP exceeds 75 % of the Community average. This would have been the most suitable solution for addressing the structural handicaps affecting the outermost regions and for ensuring that they are treated even-handedly;

1.31 **considers** in this regard, that including all the outermost regions in the new Article 56(3)(a) of the Constitutional Treaty (ex-Article 87(3)(a)), clearly reveals the intention of the European legislator and calls on the Commission, for the sake of legal security, to revise its position in negotiations on the guidelines on State aids for regional purposes and to round off its proposal by including all outermost regions in this category;

1.32 **also considers** that the planned additional intensity of aid, set at 10 percentage points, must be assessed in the light of the proposals made by the Commission in its revision of the guidelines on aids for regional purposes in order to determine whether it will be adequate to ensure a policy that supports investment in these regions;

1.33 **believes**, in view of all the above considerations, that the European Commission is not fully meeting expectations for the global, coherent approach called for by the Seville European Council;

1.34 **therefore considers** that the approach proposed by the Commission falls short in that it does not represent progress towards a Community policy for the outermost regions that would enable permanent measures more suited to the reality of the situation in these regions to be incorporated into all Community policies;



1.35 **expresses** its firm conviction that the outermost regions still need the support of the European Union to improve their competitiveness and to pursue their process of convergence in terms of economic development and opportunities for their citizens on a par with those enjoyed by citizens in Europe's other regions;

1.36 **expresses**, lastly, its support for the European Council, which considers pressing ahead rapidly with studying the Communication on the strategy for the outermost regions to be a priority.

## 2. Recommendations of the Committee of the Regions

### THE COMMITTEE OF THE REGIONS

2.1 **suggests** that the European Commission should revise its proposal on the way in which the outermost regions are treated under the cohesion policy, to include all the outermost regions in the future convergence objective, regardless of their GDP. This is the most appropriate solution to take account of the structural handicaps of these regions and to ensure that they continue to be treated even-handedly;

2.2 **calls on** the Commission to allocate the necessary financial resources to the two specific instruments that have been proposed, the programme of compensation for additional costs and the wider neighbourhood action plan. These resources must be sufficient to meet the real needs of all the outermost regions, including those whose per capita GDP exceeds 75 % of the Community average, and to achieve the objectives that have been set;

2.3 **recalls** that all the outermost regions, including those that might no longer be covered by the convergence objective, are still obliged to make the investments imposed on them by their remoteness, in particular in the field of infrastructure, and thus urges the Commission to give a commitment to authorise, under this specific programme, investment designed to offset the constraints facing the outermost regions;

2.4 **calls on** the European Commission to start work as soon as possible on giving practical effect to the 'wider neighbourhood' action plan through effective, coherent coordination with the EU's other instruments for external and development cooperation policy and with its trade and customs policy, and to submit clear proposals for coordinating these provisions with the recent 'neighbourhood initiative';

2.5 **underlines** the need to ensure that the outermost regions are included in the section on cross-border cooperation under the new objective of European territorial cooperation, as a prerequisite for the objective of integration into their surrounding geographical neighbourhood;

2.6 **suggests** to the Commission that, under the new regional aid guidelines, it should revise its proposals so as to

incorporate the provisions of the draft Constitutional Treaty and to maintain current levels of aid and the option of granting operating aid which is not progressively reduced or limited in time; the Committee further calls on the Commission to maintain and improve the specific treatment of the outermost regions as regards State aid to the farming and fishing sectors;

2.7 **calls on** the European Commission to continue guaranteeing differentiated tax arrangements for the outermost regions as necessary instruments for the economic development of these regions;

2.8 **urges** the Commission, in the framework of the partnership under which it will be implementing the Communication on the outermost regions, to fully comply with the request made by the Seville European Council, establishing a genuine cross-sectoral strategy that will enable all Community policies to be adapted to the specific circumstances of these regions and to propose specific measures in the various areas of cohesion policy;

2.9 **recommends**, in particular, maintaining and developing the special treatment accorded to traditional sectors, efforts at diversification and the process of modernisation in the primary sector, with the aim of enhancing its contribution to the process of growth and convergence in the outermost regions;

2.10 **suggests** to the Commission that it clarify its proposal to adapt the POSEI and calls for proposals for permanent measures that are given a budget appropriate to this Programme's development objective;

2.11 **calls on** the European Commission to set sufficiently high tariffs under the COM in bananas as to safeguard Community production and, if necessary, to propose measures to compensate producers;

2.12 **calls on** the European Commission to adopt specific measures as part of the reform of the COM in sugar to support the development of this sector in the outermost regions;

2.13 **calls on** the European Commission to take account of the specific needs of the outermost regions under rural development policy, providing them with sufficient resources and applying to all these regions, under the future Rural Development Fund, the co-financing rates used for the most disadvantaged regions;

2.14 **calls on** the European Commission to push for the launch of action plans in each of the geographical areas where the outermost regions are situated, involving these regions, their respective Member States and neighbouring third countries in the preparation of these plans, with the objective of integrating the outermost regions into their respective geographic areas;



2.15 **calls on** the European Commission to adopt new measures that improve the competitiveness of local farm produce, which has to compete in the same markets with similar products from other countries that have association agreements with the EU, such as Morocco, countries that are in negotiation with the EU, such as MERCOSUR, or which benefit from preferential arrangements, such as the ACP group of countries;

2.16 **calls on** the Commission to give practical effect to recital 14 of the Sixth RTD Framework Programme, introducing appropriate measures geared to the specific characteristics of the outermost regions, to facilitate their participation in Community R&D initiatives; this should be taken into account when the next Framework Programme is drawn up;

2.17 **calls on** the European Commission to consider the outermost regions to be priority regions when developing actions for the Information Society and Technological Innovation. These fields constitute a real opportunity for the outermost regions because they can help to offset some of the handicaps arising from their remoteness;

2.18 **shares** the European Commission's assessment of the importance of transport for ensuring the access of the outermost regions to the internal market and recommends that appropriate mechanisms and procedures be put in place in order fully to integrate the outermost regions in all aspects of the Common Transport Policy;

2.19 **urges** the Commission, in particular, immediately to include projects for the outermost regions in the Trans-European Transport Networks and in the Trans-European Energy Networks, and treat them as a priority;

2.20 **recalls** that the environment is an area of crucial importance to the outermost regions and calls on the European Commission to adopt appropriate measures as soon as possible to ensure sustainable development in such areas as protecting biodiversity, the Natura 2000 network and waste management;

2.21 **calls**, in general, on the European Commission to take account of the joint requests of these regions and of their respective States and to make a careful study of the relevant Community policies;

2.22 **recalls** the need to draw up instruments that will allow for an ongoing assessment to be made of the impact of new Community legislation on the outermost regions to ensure that not only does this not damage the growth of economic activities in these regions, but also that it promotes such growth in a real and lasting way;

2.23 **reiterates** that, in order to achieve the strategic objectives, effective coordination must be ensured, in particular within the Commission through the Interdepartmental Group, whose human resources must be increased;

2.24 **insists** that both the Community Institutions and regions should put in place a communication strategy for the European public, providing information on the problems affecting the outermost regions and on the genuinely European dimension of these regions;

2.25 **encourages** the outermost regions to pursue cooperation in all possible areas and the Commission to support them in this process in order to meet the two-fold challenge of their development within the Union and globalisation.

Brussels, 18 November 2004

The President  
of the Committee of the Regions  
Peter STRAUB

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**Opinion of the Committee of the Regions on the Proposal for a Regulation of the European Parliament and of the Council establishing a European grouping of cross-border cooperation (EGCC)**

(2005/C 71/11)

THE COMMITTEE OF THE REGIONS,

**Having regard to** the Proposal for a Regulation of the European Parliament and of the Council establishing a European grouping of cross-border cooperation (EGCC) adopted by the European Commission on the 14 July 2004, COM(2004) 496 final – 2004/0168 (COD);

**Having regard to** the European Commission's request of 15 July 2004 for an opinion on this subject under the third paragraph of Article 159 of the Treaty establishing the European Community;

**Having regard to** the Council's decision of 8 November 2004 to consult it on this subject;

**Having regard to** the letters from Commissioner Barnier and Commissioner De Palacio of 8 March 2004, asking for an opinion on the new European legal instrument for cross-border cooperation;

**Having regard to** the first paragraph of Article 265 of the EC Treaty, which states: 'The Committee of the Regions shall be consulted by the Council or by the Commission where this Treaty so provides and in all other cases, in particular those which concern cross-border cooperation, in which one of these two institutions considers it appropriate';

**Having regard to** Article 220 of the Treaty establishing a Constitution for Europe which states: 'In order to promote its overall harmonious development, the Union shall develop and pursue its action leading to the strengthening of its economic, social and territorial cohesion'. [...] 'Among the regions concerned, particular attention shall be paid to rural areas, areas affected by industrial transition, and areas which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density, and island, cross-border and mountain areas';

**Having regard to** its president's decision of 5 April 2004 to instruct the Commission for Territorial Cohesion Policy to draw up an opinion on this subject;

**Having regard to** the following European Parliament reports: the 1976 Gerlach report on the Community's regional policy as regards the regions at the Community's internal frontiers <sup>(1)</sup>; the 1984 Boot report on the strengthening of transfrontier cooperation <sup>(2)</sup>; the 1986 Schreiber report on the Saarland-Lorraine-Luxembourg region <sup>(3)</sup>; the Poetschki report on transfrontier cooperation at the internal borders <sup>(4)</sup>; the 1988 Chiabrando report on the development programme for the frontier regions between Portugal and Spain <sup>(5)</sup>; the 1990 Cushnahan report on the Community initiative INTERREG <sup>(6)</sup>; and the 1994 Muru report on the Community initiative INTERREG II <sup>(7)</sup>;

**Having regard to** the 1980 Madrid Outline Convention of the Council of Europe and its successive Additional Protocols (1995, 1998);

**Having regard to** the opinion of the Congress of Local and Regional Authorities of the Council of Europe submitted to the Committee of the Regions' Commission for Territorial Cohesion Policy (COTER) on *A new legal instrument for cross-border cooperation* adopted by its Bureau at the meeting of 5 May 2004, rapporteur: Herwig Van Staa (Austria, L, EPP/CD);

<sup>(1)</sup> OJ C 293, 13.12.1976

<sup>(2)</sup> OJ C 127, 14.5.1984

<sup>(3)</sup> OJ C 176, 14.7.1986

<sup>(4)</sup> OJ C 99, 13.4.1987

<sup>(5)</sup> OJ C 262, 10.10.1988

<sup>(6)</sup> OJ C 175, 16.7.1990

<sup>(7)</sup> OJ C 128, 9.5.1994

**Having regard to** the White Paper on European Governance presented by the European Commission in 2001 (COM(2001) 428 final), point 3.1 of which states that the Commission 'will examine how the framework for transnational cooperation of regional or local actors could be better supported at EU level, with a view to presenting proposals by the end of 2003';

**Having regard to** its March 2002 opinion on *Strategies for promoting cross-border and interregional cooperation in an enlarged EU - a basic document setting out guidelines for the future* (CdR 181/2000 fin) <sup>(8)</sup>;

**Having regard to** its October 2001 study on *Trans-European cooperation between territorial authorities: new challenges and future steps necessary to improve cooperation*, drawn up in close cooperation with the Association of European Border Regions (AEBR) in preparation for the above-mentioned opinion;

**Having regard to** the Third Report on Economic and Social Cohesion entitled *A new partnership for cohesion - convergence, competitiveness, cooperation*, adopted by the European Commission on 18 February 2004, the conclusions of which state: 'The Commission intends to propose a new legal instrument in the form of a European cooperation structure ("Cross-border regional authority"), in order to allow Member States, regions and local authorities to address - both inside and outside Community programmes - the traditional legal and administrative problems encountered in the management of cross-border programmes and projects. The aim would be to transfer to this new legal structure the capacity to carry out cooperation activities on behalf of public authorities';

**Having regard to** its opinion of 16 June 2004 on the Third Cohesion Report (CdR 120/2004 fin);

**Having regard to** the report *Towards a new Community legal instrument facilitating public-law-based trans-European cooperation among territorial authorities in the European Union*, drawn up by the Association of European Border Regions (AEBR) for the European Commission, based on the previous work done with the Committee of the Regions in the framework of the above mentioned study;

**Having regard to** the pre-legislative role which it plays in close consultation with the European Commission and the points of view raised by local and regional authorities during the preliminary phase;

**Having regard to** its draft opinion (CdR 62/2004 rev. 3) adopted by the Commission for Territorial Cohesion Policy on 24 September 2004 (rapporteur: Mr Niessl, Governor of Burgenland, (AT/PES);

**Adopted the following opinion at its 57<sup>th</sup> plenary session of 17 and 18 November 2004 (meeting of 18 November):**

## The Committee of the Regions' views

### THE COMMITTEE OF THE REGIONS

1. **supports** the European Commission's intention to make sustained improvements to the legal and institutional environment for cross-border, transnational and interregional cooperation (trans-European cooperation) at national, regional and local level, and **thinks** that, under the proposal for a regulation now on the table, the difficulties that remain in this field can be tackled more effectively than has been the case so far;

2. **would nonetheless propose** that the new legal instrument should be called the European grouping of trans-European cooperation (EGTC) instead of the European grouping of cross-border cooperation (EGCC), as this name also reflects its potential use in transnational and interregional cooperation as set out in Article 1 of the proposal for a regulation;

3. **agrees with** the European Commission that the conditions for trans-European cooperation cannot be improved either adequately or effectively by the Member States on their

own and that Community action is warranted under the second paragraph of Article 5 of the Treaty establishing the European Community (*subsidiarity principle*) given the transnational elements involved and the clear advantages of a Community approach over action taken at the level of the 25 Member States;

4. **agrees with** the European Commission that the proposal for a regulation does not go beyond what is necessary to achieve the objectives of the Treaty within the meaning of the third paragraph of Article 5 of the Treaty establishing the European Community (*proportionality principle*) as it merely provides an optional framework for trans-European cooperation and lays down only minimum requirements for setting up and operating a European grouping of trans-European cooperation;

5. **welcomes** the fact that the European Commission is basing the proposed regulation on Article 159 of the EC Treaty; this brings the Article 251 co-decision procedure into play, under which the Council acts by a qualified majority;

<sup>(8)</sup> OJ C 192, 12.8.2002, p. 37

6. **is pleased** that the European Commission has opted for a regulation as the legal instrument in this instance, as that means that any regional and local authority wishing to set up a European grouping of trans-European cooperation can do so without the need for transposition measures and/or individual Member States' approval;

7. at the same time, however, **is pleased** that the Member States – and not just the regional and local authorities – can also be involved in setting up a European grouping of trans-European cooperation and can thus play a part in boosting economic and social cohesion in Europe through cross-border, transnational and interregional cooperation;

8. also **welcomes** the fact that, under the proposed regulation, the EGTC may be made up not only of Member States and regional and local authorities, but also of other local public bodies;

9. **is pleased** that the European Commission has taken up the Committee of the Regions' proposal that the remit of an EGTC should not be restricted to cross-border cooperation alone, but may also cover transnational and interregional cooperation as well; it **would urge, however**, that appropriate changes be made in the text of the regulation – as already proposed for the title – to bring out this objective more clearly;

10. **welcomes** the fact that the regulation creates uniform conditions for the establishment of EGTCs in all EU Member States; it **calls upon** the Commission to ensure that existing bilateral trans-European cooperation agreements remain applicable;

11. **backs** the wording used by the European Commission in Article 3(1) of the proposed regulation regarding the tasks and competence of an EGTC, whereby members themselves decide what the EGTC's remit is to be;

12. **welcomes** the fact that a choice may be made as regards the applicable national law; it does, however, call upon the Commission to seek ways of preventing possible conflicts with existing national law. If EGTC headquarters are located in a Member State whose national law is not to apply, the European Commission is asked to take the requisite steps to avoid any potential conflicts between provisions;

13. **recommends** that the regulation authorise Member States, where necessary, to make appropriate provision, in line with constitutional arrangements, for transferring tasks to and supervising the EGTC;

14. **applauds** the fact that an EGTC may be given the task not only of implementing Community-financed programmes but also of carrying out other general trans-European cooperation measures, as this can give a major boost to the further development of trans-European activities in Europe; but **notes** that the provisions of the proposed regulation can only be effective if it is possible for third parties to give an EGTC the task of implementing Community-financed programmes;

15. **backs** the proposal to invest the EGTC with legal personality, but also **supports** the possibility of assigning the practical execution of EGTC tasks to one of its members, since that can prevent the emergence of any new, inflated, bureaucratic structures;

16. **considers, however**, that it should be possible not only to assign EGTC tasks *en bloc* to the grouping's members, but also to assign only some of them or share them out among the members, and **asks** that Article 5(3) be amended accordingly;

17. **asks** that an EGTC be obliged to establish an assembly made up of representatives of its members which, in a spirit of transparency and democratic accountability, bears responsibility for the grouping's activities;

18. **considers it necessary** to stipulate in Article 6 of the regulation that the EGTC director is answerable, both politically and legally, to the members acting as representatives in the EGTC assembly;

19. **asks** that the trans-European cooperation conventions adopted under this regulation be notified not only to all members and Member States but also to the Committee of the Regions. The Committee of the Regions should keep a register of existing EGTCs so that the European institutions, the Member States, regional and local authorities and any European citizen can quickly call up specific data about any EGTC. This register could also play a valuable role in disseminating best practice across Europe.

## The Committee of the Regions' recommendations

### Recommendation 1

#### Title

(also change the definition and the acronym to EGTC throughout the document as appropriate)

Text proposed by the Commission	CoR amendment
establishing a European grouping of cross-border cooperation (EGCC)	establishing a European grouping of <del>cross-border</del> <u>trans-European</u> cooperation ( <del>EGCC</del> ) ( <u>EGTC</u> )

#### Reason

There are three kinds of cooperation between Member States, regions and local authorities: cross-border, interregional and transnational. These are subsumed under the broad term 'trans-European cooperation'. It should be possible to establish a European grouping for all three kinds of trans-European cooperation.

### Recommendation 2

#### (recital 1)

(also change 'cross-border cooperation' and 'transnational and interregional cooperation' to 'trans-European cooperation' throughout the document as appropriate)

Text proposed by the Commission	CoR amendment
Article 159, paragraph 3, of the treaty provides for specific actions to be decided outside the funds which are the subject of paragraph 1 of that article, in order to achieve the objective of social and economic cohesion envisaged by the treaty. The harmonious development of the entire community territory and greater economic, social and territorial cohesion imply the strengthening of cross-border cooperation. To this end it is appropriate to adopt the measures necessary for improving the implementation conditions for actions of cross-border cooperation.	Article 159, paragraph 3, of the treaty provides for specific actions to be decided outside the funds which are the subject of paragraph 1 of that article, in order to achieve the objective of social and economic cohesion envisaged by the treaty. The harmonious development of the entire community territory and greater economic, social and territorial cohesion imply the strengthening of cross-border, <u>transnational and interregional</u> cooperation ( <del>hereinafter referred to as 'trans-European cooperation'</del> ). To this end it is appropriate to adopt the measures necessary for improving the implementation conditions for actions of <del>cross-border</del> <u>trans-European</u> cooperation.

#### Reason

This change follows on from recommendation 1.

### Recommendation (new) 3

#### (recital 7)

Text proposed by the Commission	CoR amendment
(7) In order to overcome the obstacles hindering cross-border cooperation, it is necessary to institute a cooperation instrument at the community level, which allows the creation of cooperative groupings in the community territory, invested with legal personality, called 'European groupings of cross-border cooperation' (EGCC). Recourse to the EGCC should be optional.	(7) In order to overcome the obstacles hindering cross-border cooperation, it is necessary to institute a cooperation instrument at the community level, which allows the creation of cooperative groupings in the community territory, invested with legal personality, called 'European groupings of <del>cross-border</del> <u>trans-European</u> cooperation' ( <del>EGCC</del> ). ( <u>EGTC</u> ). Recourse to the <del>EGCC</del> <u>EGTC</u> should be optional. Existing bilateral <u>agreements on cross-border, interregional or transnational cooperation between local authorities, and/or regions and/or states shall remain applicable.</u>



## Reason

The legal scope, as regards cross-border cooperation, of existing bilateral agreements, such as the Karlsruhe Agreement, must not be restricted by the regulation.

## Recommendation 4

(recital 10)

Text proposed by the Commission	CoR amendment
The members may decide to set up the EGCC either as a separate legal entity or to assign its tasks to one of the members.	The members may decide to set up the <del>EGCC</del> <u>EGTC</u> either as a separate legal entity or to assign its tasks to <u>one or several</u> of <del>the</del> <u>its</u> members.

## Reason

This change follows on from recommendation 1.

## Recommendation 5

(recital 11)

Text proposed by the Commission	CoR amendment
[...] at the sole initiative of the Member States and their regional and local authorities, without financial contribution by the Community.	[...] at the sole initiative of the Member States and <u>or</u> their regional and local authorities, without financial contribution by the Community.

## Reason

The very nature of trans-European cooperation is that it should also be open to regions and local authorities without Member State involvement.

## Recommendation 6

Article 1(1)

Text proposed by the Commission	CoR amendment
<p>Nature of the EGCC</p> <p>1. A co-operative grouping can be established on community territory in the form of a European grouping of cross-border cooperation, hereafter referred to as 'EGCC', under the conditions and according to the modalities envisaged by this regulation.</p>	<p>Nature of the <del>EGCC</del> <u>EGTC</u></p> <p>1. A co-operative grouping can be established on community territory in the form of a European grouping of <del>cross-border</del> <u>trans-European</u> cooperation, hereafter referred to as <del>EGCC</del> <u>EGTC</u>, under the conditions and according to the modalities envisaged by this regulation.</p>

## Reason

This change follows on from recommendation 1.

## Recommendation 7

## Article 1(3)

Text proposed by the Commission	CoR amendment
The objective of the EGCC is to facilitate and promote cross-border cooperation between Member States, as well as regional and local authorities, with the aim of reinforcing economic, social and territorial cohesion.	The objective of the <del>EGCC</del> <u>EGTC</u> is to facilitate and promote cross-border, <u>transnational and interregional</u> cooperation <u>(trans-European cooperation)</u> between Member States, as well as regional and local authorities, with the aim of reinforcing economic, social and territorial cohesion.

## Reason

This change follows on from recommendation 1.

## Recommendation 8

## Article 2(3)

Text proposed by the Commission	CoR amendment
The members can decide to set up the EGCC as a separate legal entity, or to assign its tasks to one of the members.	The members can decide to set up the <del>EGCC</del> <u>EGTC</u> as a separate legal entity, or to assign its tasks to one <u>or several</u> of the members.

## Reason

This change follows on from recommendation 1.

## Recommendation 9

## Article 3(1)

Text proposed by the Commission	CoR amendment
<del>The EGCC carries out the tasks which it is assigned by its members in accordance with this regulation.</del>	The EGCC carries out the tasks which are transferred to it by its members or, with its agreement, by third parties, in accordance with this regulation.

## Reason

This insertion is necessary if EGTCs are to implement Community-financed programmes in future.

## Recommendation 10

## Article 3(3)

Draft opinion	Amendment
<del>The formation of an EGCC does not affect the financial responsibility of its members or of the Member States, neither for community funds nor for national funds.</del>	<u>The formation of an EGCC does not affect the financial responsibility of its members for community funds or for national funds, nor that of Member States for community funds. Member States have the right to adopt legislation or agreements enabling them to monitor compliance by the EGCC with legal and technical specifications. Responsibility for monitoring can either rest with the Community or be transferred to one of the Member States.</u>

## Reason

Obviously, Member States answer to their respective national parliaments for national funds, and there is no need for the proposed regulation to mention this. However, if Member States (or the relevant federal states in Member States with a federal structure) are to be responsible for Community funds, there must be scope for comprehensive monitoring of EGCCs by Member States. Failing this, Member States might bear responsibility for situations over which they had no control.

## Recommendation 11

## Article 4(8)

Text proposed by the Commission	CoR amendment
The convention is notified to all its members and to the Member States.	<u>The convention is notified to all its members, and to the Member States, and to the Committee of the Regions. The Committee shall enter the convention in a public register of all conventions of trans-European cooperation.</u>

## Reason

The CoR is committed to transparency in line with the EC Treaty and sees itself a 'one-stop shop' that must be readily accessible as a centre of expertise both for the European public and the European Commission departments. As such, it must also see to it that data relating to the regional and local levels – and thus to grassroots concerns – can be accessed at any time.

## Recommendation 12

Article 5 and throughout the document as appropriate

Text proposed by the Commission	CoR amendment
Statutes	Translator's note: The proposal is to change the German term 'Geschäftsordnung' ('Rules of Procedure') used in this point to 'Statuten' ('Statutes'). The English-language version already uses the word 'statutes' so the amendment does not apply.

## Reason

The basic principles underpinning the grouping should be laid down in statutes. Rules of procedure, on the other hand, regulate internal workings. There is nothing therefore to stop the EGTC having rules of procedure as well as statutes.

Brussels, 18 November 2004.

The President  
of the Committee of the Regions  
Peter STRAUB

# RESOLUTION OF THE COMMITTEE OF THE REGIONS OF 18 NOVEMBER 2004 ON THE OPENING OF NEGOTIATIONS FOR TURKEY'S ACCESSION TO THE EU

(2005/C 71/12)

## THE COMMITTEE OF THE REGIONS:

- Having regard to the Communication entitled *Recommendation of the European Commission on Turkey's progress towards accession*, presented by the European Commission on 6 October 2004 (COM(2004) 656 final);
  - Having regard to the *2004 Regular Report on Turkey's progress towards accession* (SEC(2004) 1201);
  - Having regard to the Declaration of Ankara adopted by the CoR RELEX Commission and the Union of Municipalities in Turkey (UTM) on 11 October 2004;
  - Having regard to Committee of the Regions' *External Relations Strategy* as adopted at its extraordinary Bureau meeting in The Hague on 21 October 2004;
- 1) **welcomes** the application of Turkey on equal terms with the applications of other European countries;
  - 2) **intends** to present its views regarding Turkey's accession, from a local and regional perspective, at appropriate opportunities in the future; and urges the European Commission to consult the Committee on future regular reports;
  - 3) **recognises** that the reform efforts made by the Turkish authorities during the last years have helped Turkey to seek to fulfil the Copenhagen criteria, facilitating a decision towards the opening of negotiations for Turkey's accession to the EU;
  - 4) **encourages** the Turkish government to press ahead with its challenging reforms in order to achieve their full implementation as soon as possible in an irreversible and sustainable manner;
  - 5) **welcomes** the decentralisation efforts undertaken in Turkey, which should be in accordance with the principles of the Charter of Local Self-Government, as well as the passing of the Local Administration Reform Law in 2004 which recognises the existence of local administration as the smallest organisational unit and expects its proper implementation as well as similar efforts concerning the regional level;

- 6) **expects** that the package on the reform of the public administration - including in particular a Framework Law on Public Sector Reform, a Law on Special Provincial Administration, as well as a Law on Municipalities and Metropolitan Municipalities - be rapidly adopted after proper consultation of local and regional authorities' organisations and civil society and verification of its constitutional compliance; **stresses** the need to provide the relevant local authorities with the necessary financial and human resources to fully implement the reforms, to pay special attention to the economic and social development of Turkey's less-favoured regions and to provide for a legal framework on regional development policy;
- 7) **underlines** that successful implementation of these reforms would underpin Turkey's future EU accession efforts and therefore **strongly supports** the view of the European Commission that an impact analysis, an implementation plan and a budgetary and fiscal framework are needed;
- 8) **welcomes** the three-pillar strategy proposed by the European Commission and commits itself to become an active actor in third pillar dedicated to the strengthening of political, cultural, social and religious dialogue bringing people closer together; therefore **recommends** further deepening the dialogue between the CoR and the Turkish local authorities, building on the CoR's past experience with previous candidate countries, which will guarantee respect for local democracy and the implementation of regional decentralisation; on the basis of the European Council decision on Turkey, the CoR expects the Turkish government, the Council of Ministers and the Association Council to propose the establishment of a Joint Consultative Committee between Turkish local and regional authorities and the CoR;
- 9) **strongly encourages** Turkey to take the necessary steps in order to dissipate the pending concerns underlined in the European Commission's recommendation, and in particular those referring to: the respect of human rights and the exercise of fundamental freedoms; the zero tolerance of torture and ill-treatment; the full enjoyment of rights and freedoms by all minorities; respect for all religions (especially the question of the equal legal status for all churches); zero tolerance of discrimination and violence against women; respect of ILO standards concerning child labour;
- 10) **calls** on the Turkish government to provide determined support to a renewed effort, under the auspices of the United Nations Secretary General, for reaching a solution on the Cyprus problem, consistent with the United Nations resolutions, the *acquis communautaire* and European values and principles;
- 11) **acknowledges** the particular challenges as identified in the European Commission's Communication arising from Turkey's membership perspective with regard to the future application of the Common Agriculture Policy, of the cohesion policy and of the free movement of workers;
- 12) **stresses** the general objective of the European Union to advance further towards a political Union of common values and **underlines** in particular the urgent need to create the necessary financial and institutional, economic preconditions to successfully prepare the Union for further enlargement;
- 13) **draws attention** to the European Commission's conclusion whereby it states that it 'will recommend the suspension of the negotiations in the case of a serious and persistent breach of the principles of liberty, democracy, respect of human rights and fundamental freedoms and the rule of law on which the Union is founded' and **underlines** the Commission's view that Turkey's accession negotiations is an 'open-ended process whose outcome cannot be guaranteed beforehand';
- 14) **instructs** its President to forward this resolution, in view of the European Council meeting in Brussels on 17 December, to the Council of the European Union, the European Parliament, the European Commission and the Turkish Parliament and Government.

Brussels, 18 November 2004

The President  
of the Committee of the Regions  
Peter STRAUB



**Opinion of the Committee of the Regions on the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on Connecting Europe at High Speed: National Broadband Strategies**

(2005/C 71/13)

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 of the Regions on *Connecting Europe at high speed: National broadband strategies* COM(2004) 369 final;

Having regard to the decision of the European Commission of 13 May 2004 to consult it on this subject, under the first paragraph of Article 265 of the Treaty establishing the European Community;

Having regard to the decision of its Bureau of 20 April 2004 to instruct its Commission for Culture and Education to draw up an Opinion on the subject;

Having regard to the Lisbon strategy to make the European Union 'the most competitive and dynamic knowledge-based economy in the world by 2010, capable of sustainable economic growth, with more and better jobs and greater social cohesion';

Having regard to the Barcelona European Council call on the Commission to draw up an eEurope action plan focusing on 'the widespread availability and use of broadband networks throughout the Union by 2005 and the development of Internet protocol IPv6 and the security of networks and information, eGovernment, eLearning, eHealth and eBusiness' <sup>(1)</sup>;

Having regard to the resulting eEurope 2005 Action Plan adopted in May 2002. Stimulating use and creating new services were its new central goals endorsed by the Seville European Council <sup>(2)</sup>. The overall aims are that, by the end of 2005, Europe should have modern online public services (e-government, e-learning, e-health) and a dynamic e-business environment, based on a widespread availability of broadband access at competitive prices and a secure information infrastructure;

Having regard to the preliminary draft opinion of the European Economic and Social Committee on *Connecting Europe at high speed: recent developments in the sector of electronic communications* - COM(2004) 61 final <sup>(3)</sup>;

Having regard to the Communication from the Commission on *Interoperable Delivery of Pan-European eGovernment Services to Public Administrations, Businesses and Citizens (IDABC)* COM(2003) 406 final – 2003/0147 (COD);

Having regard to its Opinion on the *Evaluation of the IDA programme and a second phase of the IDA programme* (CdR 44/98 fin) <sup>(4)</sup>;

Having regard to its Draft Opinion CdR 257/2004 rev. 2 adopted on 22 September 2004 by its Commission for Culture and Education (Rapporteur: Mr Tomáš Štebe, Mayor of the Municipality Mengeš (SI/EPP));

<sup>(1)</sup> Barcelona European Council, Presidency Conclusions, paragraph 40, <http://europa.eu.int/en/Info/eurocouncil/index.htm>.

<sup>(2)</sup> COM(2002) 263 final 'eEurope 2005 Action Plan: An information society for all.'

<sup>(3)</sup> R/CESE 880/2004 – TEN 189/2004

<sup>(4)</sup> OJ C 251 of 10.8.1998, p. 1

Whereas:

1. An ambitious high speed connectivity, taking into account equal rights, non-discriminatory and digital opportunity for a European wide information infrastructure must play the major role in bringing together the whole of Europe, the EU Member States and all future European applicant states, i.e. their town and rural municipalities, businesses and citizens;
2. It is crucial to deploy an effective and modern information infrastructure for new and existing businesses, modernised public services;
3. Equal information society opportunities should be among European citizens' rights regarding connectivity and services independent of the type of user, social status and location;
4. Information infrastructure should be understood and managed in the society the same way as the water and electricity supply;

**adopted the following opinion at its 57<sup>th</sup> plenary session, held on 17-18 November 2004 (Meeting of 18 November).**

## 1. The Committee of the Regions' Views

### THE COMMITTEE OF THE REGIONS

1.1 **welcomes** the conciseness and clarity of the analysis and the conclusions made by the Commission in the Communication '*Connecting Europe at High Speed: National Broadband Strategies*' which is strongly related to the previous analysis and recommendations in '*Connecting Europe at high speed: recent developments in the sector of electronic communications*'<sup>(5)</sup>, and the proposed actions in '*eEurope 2005 Action Plan: An Update*';

1.2 **recognises** that the benefits of broadband play a major role in economies and societies. Past experiences of significant increases in deployment and take-up of broadband are highly encouraging. The number of broadband connections doubled in EU-15 in 2003. However, there is still a gap compared to the eEurope plan and its targets outside urban centres and institutions, and particularly in rural and in disadvantaged or less favoured areas;

1.3 **is convinced** that the eEurope Action plan update and EU-25 extended High Speed National Broadband Strategies should stimulate progress to the most advanced, trusted and immediate European Information Infrastructure (EII) for Administrations, Business and Citizens;

1.4 **requests** that strategies and actions concerning the information infrastructure, especially backbone communica-

tions construction - broadband highways in towns and rural municipalities - and supporting infrastructure eServices development should be highly ambitious, taking into account technological and commercial interests and should be financed through local, national and European public funds in the same way as (national) roads and highways or other basic infrastructures;

1.5 **requests** that the Commission continues to prosecute the infringements of silent regulators not acting effectively, or not acting within a reasonable timeframe, against dominant networks or services, and whose behaviour inhibits equal opportunity provision and effective competition within the information infrastructure on national and local level;

1.6 **welcomes** the European Initiative for Growth, endorsed by the European Council in December 2003, that highlights the opportunity of using public funds, including the Structural Funds to ensure widespread availability of broadband as already proposed in eEurope 2005<sup>(6)</sup>. New Digital Divide 'Quick-start projects' will accelerate provision of broadband in less favoured areas where commercial grounds do not apply;

1.7 **supports** the Commission's suggestions for the Union's structural funds in support of electronic communications in rural or disadvantaged urban areas<sup>(7)</sup>;

<sup>(5)</sup> '*Space: a new European frontier for an expanding union - An action plan for implementing the European Space Policy*', COM(2003) 673 final and '*Connecting Europe at high speed: recent developments in the sector of electronic communications*', COM(2004) 61 final.

<sup>(6)</sup> See COM(2003) 65 final '*Road to the Knowledge Economy*' and COM(2003) 690 final '*A European Initiative for Growth*'.

<sup>(7)</sup> '*Guidelines on Criteria and Modalities of Implementation of Structural Funds in Support of Electronic Communications*', SEC(2003) 895  
[http://europa.eu.int/comm/regional\\_policy/sources/docoffic/working/doc/telecom\\_en.pdf](http://europa.eu.int/comm/regional_policy/sources/docoffic/working/doc/telecom_en.pdf)

1.8 **requests** that the Commission's information society and information infrastructure policy promote and support developments of innovative services and procedures to replace obsolete technologies and introduce new competitive and advanced commercial and public eServices for businesses, citizens and administrations;

1.9 **welcomes** the Commission's action in addressing critical issues that hamper the transfer of good experiences such as the legal aspects of the process of re-using successful developments, the ownership of the systems and their relationship with the public tendering procedures, and procedures for implementing public-private partnerships <sup>(8)</sup>;

1.10 **supports** the education and encouragement of the general public for new services and technologies; Broadband should be used to deliver new and better services to the people;

1.11 **welcomes** public intervention for construction and development of a European Information Infrastructure in favour of Europe's competitive base for commercial and wide-spread public services. eServices developed with the help of public funds should play an important complementary role for commercial investment and ease private initiatives and support EU companies to compete worldwide;

1.12 **welcomes** the importance the European Commission is attributing to the issue of a secure information infrastructure and the establishment of the European Network and Information Security Agency (ENISA);

1.13 **is in favour** of a (re)definition of broadband according to an ambitious understanding of the information infrastructure as outlined in this Opinion. Consequently, existing activities and programmes (eEurope, IST, IDA, eTEN,..., and DRM, IPR <sup>(9)</sup>) should be adequately clarified, simplified and redefined as well as complemented;

1.14 **thinks that** the definition of 'broadband' in the report is a good starting point, namely: '... a wide range of technologies that have been developed to support the delivery of innovative interactive services, equipped with an always-on functionality, providing sufficient bandwidth capacity that evolves over time, and allowing the simultaneous use of both voice and data services';

1.15 **suggests** adding to the definition of broadband, as an enabling infrastructure and high speed communication network, the elements of important tools, utilities and mechanisms (EII driver services platform) in support of eServices for on-line, secure and trusted real-time exchange of data;

1.16 **is in favour** of added mandatory specifications for high speed internet/broadband connections such as delay, fault recovery;

1.17 **suggests** starting a new initiative The Digital Opportunity Information Technology (DOIT) for all, with special attention on less developed areas, to deploy the information infrastructure and support the present or introduce new economic activities through education, promotion, and information infrastructure funding;

1.18 **encourages** local authorities to design and build communication cables, underground ducts when (re)constructing streets and roads or installing them together with other cabling and communal pipelines (street lights, power cables) as a long term investment;

1.19 **encourages** local authorities and the European Commission to evaluate the model where a single company (or local authority or authorities) builds, owns and maintains the information infrastructure. Multiple service providers would then be enabled to use the infrastructure on an equal base. The main aim of this strategy would be to strengthen the competition of costs and quality of service providers, by giving all of them the same, non-discriminatory chances of reaching their customers;

1.20 **is in favour** of increased competition by: enabling an easy and fast acquisition of necessary licenses for infrastructure and frequency ranges;

1.21 **Is in favour** of standards and basic applications (common eServices) with common (compatible) data models and data attributes, for e.g.: GIS, 3D and VR visualisation technologies for spatial planning and regeneration / Space, real estate property and communal infrastructure management; distributed and registered public data bases access, update; public office services at home or at the work place; Traffic management: congestion, toll, ticket paying with smart non contact (mobile) IDs;

<sup>(8)</sup> N.B.: the Commission is preparing a Green Paper on public-private partnerships in the European Union.

<sup>(9)</sup> COM(2004) 261 final *The Management of Copyright and Related Rights in the Internal Market*.

1.22 **is in favour** of more ambitious EII targets for communications / connectivity / throughput / availability / affordability of:

- a) fibre optic connecting every European final user with minimal 10 Mbps or more, two way communication, except in the cases where economy and optimal communication (geography, user needs) requests other solutions, e.g. (high speed) copper wires or fixed wireless access (WFA) / satellite transmission:

25 % - at the end of 2006;

70 % - at the end of 2010;

- b) bandwidth and availability to ensure IP telephony for nomadic users - at the end of 2006;
- c) reasonable pricing of monthly broadband connection costs with 10 Mbps throughput, secure internet and trusted transactions, multimedia IP 'telephony', digital TV/Radio (multimedia) broadcasting (digital rights not in the price) - at the end of 2006;

1.23 **is in favour** of the following European information infrastructure (EII) strategies:

- a) on-line, reliable, secure, authentic and trusted exchange of multimedia data and documents – at the end of 2006;
- b) distributed, interoperable, complex, hierarchical data access and update – at the end of 2007;
- c) virtual or simulated environment and real processes access and control in real-time – at the end of 2008;

1.24 **is in favour** of EII services platform:

- a) interoperability of certification and verification systems used in the EU;
- b) eMoney/ePay with very affordable transaction and management fees;
- c) Telemedicine (eHealth), eLearning;

- d) wired up community: Tele-metrics, process control, building and facility management;

1.25 **is concerned** that with most of the traditional 'telephony' copper wire communication is becoming obsolete or entering into very heavy competition (unbundling of local loops). National governments do not undertake the necessary restructuring and engage in discriminatory activities with the consequences of slowing down the implementation of modern information infrastructure.

## 2. The Committee of the Regions' recommendations

### THE COMMITTEE OF THE REGIONS

2.1 **recommends** that the Commission enforces the implementation of regulations:

- a) Supervision and enforcing of a shared infrastructure competition on a non-discriminatory, equal cost basis for all operators or providers;
- b) NRA (National Regulatory Authority) to allow frequency selections for FWA and decrease the licence fees for rural or less favoured areas;

2.2 **recommends** that the Commission supports the funding of an EII with the following orientations and priorities:

- a) for ducts construction;
- b) for services platform development;
- c) for cabling and networks equipment in rural and less favoured areas;
- d) NRA to decrease the licence fees for less favoured areas;

2.3 **recommends** that the European Commission emphasises in the forthcoming document on High Speed Communication Strategies (EU 25 including the new Candidate countries) to be issued in October 2004 the importance of ambitious and far-reaching technological advances in the European Information Infrastructure.

Brussels, 18 November 2004.

The President  
of the Committee of the Regions  
Peter STRAUB

**Opinion of the Committee of the Regions on the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions eEurope 2005 Action Plan: An Update**

(2005/C 71/14)

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 *eEurope 2005 Action Plan: An update* (COM(2004)380 final),

Having regard to the decision of the European Commission of 17 May 2004 to consult it on this subject, under the first paragraph of Article 265 of the Treaty establishing the European Community,

Having regard to the decision of its Bureau of 20 April 2004 to instruct its Commission for Culture and Education to draw up an Opinion on this subject,

Having regard to its Opinion on *eEurope 2005: An information society for all* (CdR 136/2002 fin) <sup>(1)</sup>,

Having regard to its Opinion on the *Role of eGovernment for Europe's future*,

Having regard to its Draft Opinion CdR 193/2004 rev. 2 adopted on 22 September 2004 by its Commission for Culture and Education, (Rapporteur: **Mr Risto Ervelä**, Chairman of Sauvo Local Council, Chairman of the Regional Council of Southwest Finland (FI/ELDR),

Whereas:

- 1) information and communication technologies (ICT) play an important role in implementing the economic, social and sustainable development goals of the Lisbon Strategy,
- 2) the most important goal must be considered to be the creation of a socially and regionally equitable European information society,

**Adopted the following opinion at its 57<sup>th</sup> plenary session, held on 17-18 November 2004 (meeting of 18 November).**

## 1. The Committee of the Regions' views

*A socially and regionally equitable information society*

1.3 **notes** that the Commission's proposed actions to speed up e-inclusion are appropriate as such, but **has doubts** about their effectiveness in the short run and **thinks** that, in order to avoid digital exclusion, it must be ensured, at least for time being, that citizens also have the possibility to receive essential services via traditional channels.

THE COMMITTEE OF THE REGIONS

1.1 **shares** the concern, reiterated in the mid-term review of the eEurope Action plan, about the effects of problems caused by the digital divide and **thanks** the Commission for making e-inclusion and social cohesion, as regards regional imbalances and the potential for delivery of e-services to widen accessibility for all, a new in priority in the Action Plan update, which is the subject of the present opinion;

*ICT and the Lisbon Strategy*

THE COMMITTEE OF THE REGIONS

1.2 **feels** that regional differences in the availability and pricing of broadband services have become a major obstacle to equal access to and participation in the information society and **considers** it important that the work of the Digital Divide Forum set up to address this problem get under way as soon as possible;

1.4 **agrees** with the Commission that ICT has made it possible to raise productivity and increase the opportunities for inclusion, but **stresses** that, for example in public administration, only a small part of the potential has been exploited in this regard not only in terms of the provision of e-services in specific fields, but also investment, in compliance with the Community legal framework for competition, in those areas where demand may not be sufficient to attract commercial investors;

<sup>(1)</sup> OJ C 128, 29.5.2003, p.14



1.5 **finds** that the measures presented in the original Action Plan and its update put the emphasis on developing on-line services although using ICT to make government more efficient and effective also requires changes in the way organisations work and cooperate with each other;

1.6 **supports** the Commission's view that, after 2005, the EU's information society policy be aligned more closely to the needs of the different areas of the Lisbon Strategy so that, in addition to the economic and social objectives, it give greater attention than at present to the relation between ICT and sustainable development.

#### *Impact of enlargement*

#### THE COMMITTEE OF THE REGIONS

1.7 **appreciates** the fact that the Commission has responded quickly to the needs created by enlargement by updating the eEurope Action Plan;

1.8 **points out** that, as a result of enlargement, the differences between Member States and, in particular, between regions have increased, as measured in terms of benchmarking indicators, and welcomes the steps the Commission proposes to take to improve the provision of information on benchmarking results;

1.9 **hopes** that it will be possible to make use of the good networks of local and regional authorities, which also cover the new Member States, particularly in the transfer of good experience.

#### *Role of local and regional authorities in implementing the Action Plan*

#### THE COMMITTEE OF THE REGIONS

1.10 **emphasises** the important and often independent role of Europe's local and regional authorities in the provision of on-line services in the areas of administration, health, culture, tourism and education and training and the part they play in local and regional projects for the development of communications services and e-business;

1.11 **thinks** that, without the extensive involvement of Europe's local and regional authorities, it will not be possible to implement open-coordination processes to promote voluntary and multilateral commitments to the priorities for the deployment of on-line services.

## 2. The Committee of the Regions recommendations

#### THE COMMITTEE OF THE REGIONS

2.1 **hopes** that the Commission clarify its information society policy by publishing a synthesis of the original eEurope Action and Plan and its update;

2.2 **thinks** that the monitoring of broadband availability should be improved so as to take better account of differences in user needs, as broadband services with the lowest capacity cannot contribute towards achieving the Action Plan targets for public on-line services, especially in the most remote regions;

2.3 **feels** that the availability of communications services that are important for society cannot depend solely on whether the private sector is interested in developing them in a particular area or not; rather, the public sector must be able, where necessary, to take steps of its own to ensure that the availability of communications services meets users' needs;

2.4 **hopes** that, particularly in the dissemination of good practice, prominence be given not only to on-line services but also to examples of how ICT has helped to improve quality and productivity in traditional services and reduce unnecessary red tape;

2.5 **supports** the idea of enhancing the pan-European dimension in public on-line services but **stresses** that the provision of day-to-day services required by companies and individuals in another Member State is also largely the responsibility of local and regional authorities, and it is hard to imagine that an effective pan-European dimension could be developed in this regard without the close involvement of the local and regional sector;

2.6 **proposes** that a more detailed report be drawn up on the reasons why the demand for public on-line services in Europe falls short of supply;

2.7 **emphasises** that all the parties responsible for the development of on-line health services should be afforded the opportunity to participate in drawing up national and regional roadmaps for e-health;

2.8 **expresses** the hope that interoperability in the area of e-learning, as called for in the Action Plan, can be increased by, for example, establishing European e-learning quality criteria for different types of education and training;

2.9 **considers it important** that the Commission carry out, as quickly as possible, an analysis of the market for and interoperability of electronic signatures which also takes into account applications other than qualified certificates and that, in so doing, it place special emphasis on pan-European services;

2.10 **requests** the Commission to take steps to ensure that the fact that technology makes it easier to use electronic signatures does not lead to a situation where, especially in the public sector, their use is demanded even though this is neither necessary nor appropriate from the point of view of the quality or security of the service;

2.11 **points out** that, in addition to e-signature procedures intended for service users, it is at least as important to develop the use of e-signature enabling a citizen to be absolutely sure that a message he/she receives from a public authority or a company comes from the source it is purported to come from;

2.12 **endorses** the Commission's blueprint for mobile payments and **stresses** that, because of Europe's advanced mobile market, mobile payments could help to spearhead the achievement of the Lisbon Strategy goals over the next few years;

2.13 **notes** that the Commission's contribution to developing a framework for digital rights management and inviting stakeholders to joint discussions is necessary and that digital rights owners will be encouraged to agree on the degree of interoperability;

2.14 warmly **welcomes** the Commission's plan to establish a database of SME best practices with regard to e-business and **hopes** that Europe's local and regional authorities, which work in close cooperation with SMEs, will also be able to play a full part in the development and use of the database;

2.15 **requests** the Commission to widen the scope of the guidelines on multi-platform approaches to include traditional service channels, in addition to on-line services, so as to alleviate the problems caused by the digital divide;

2.16 **thinks** that the benchmarking data provided by the proposed eEurope information service should make it possible to compare the performance of not only Member States but also regions since the differences between the latter are large and information on a region's shortcomings would enable the region's decision-makers to focus on redressing them.

Brussels, 18 November 2004

The President  
of the Committee of the Regions  
Peter STRAUB

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## Opinion of the Committee of the Regions on the Green Paper on equality and non-discrimination in an enlarged European Union

(2005/C 71/15)

THE COMMITTEE OF THE REGIONS,

Having regard to the Green Paper on equality and non-discrimination in an enlarged European Union COM(2004) 379 final,

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

Having regard to its opinion on equal treatment (CdR 513/99 fin) <sup>(1)</sup>,

Having regard to its opinion on implementing the principle of equal treatment between men and women in the access to and supply of goods and services (CdR 19/2004 fin) <sup>(2)</sup>

Having regard to its draft opinion (CdR 241/2004 rev 1) adopted on 4 October 2004 by the Commission for Economic and Social Policy (rapporteur: **Cllr Peter Moore**, Sheffield City Council (UK/ELDR)),

**adopted the following opinion unanimously at its 57<sup>th</sup> plenary session of 17 and 18 November 2004 (meeting of 18 November).**

### 1. Comments

THE COMMITTEE OF THE REGIONS

#### (I) *Meeting the Challenge of Enlargement*

1.1 **welcomes** the view of the Commission that enlargement should be used as an incentive for all member states to step up their efforts to address the challenges faced by minorities, and its recognition that this relates in particular to the Roma;

1.2 **agrees** that the rights based approach with respect to areas such as disability, age and sexual orientation as reflected in EU anti-discrimination policy, is still a relatively new concept both for public authorities and NGOs in some of the member states;

1.3 **regrets** that in the absence of an amendment to Article 13 of the EC Treaty, the adoption of Community legislation in this area continues to require unanimous agreement.

#### (II) *Implementing Non-Discrimination in Law and Practice*

1.4 **deplores** the emergence of a hierarchy of protection between different groups covered by Article 13. Disparities remain in both material scope as well as enforcement mechanisms for different types of discrimination - an effective approach to anti-discrimination requires greater equality in the level of protection available and an enhancement in the consis-

tency of the law in this regard. The CoR also reminds the Commission that a more comprehensive EU policy framework remains to be completed with respect to disability, age, sexual orientation, religion and belief. For example, the CoR recognises that people with disabilities often face discrimination in the form of inaccessible public transport, built environment and an inaccessible info/communications environment. The Commission has not published any communications specifically and exclusively on sexual orientation issues in EU law and policy, yet this is clearly covered by Article 13 of the Treaty;

1.5 **considers that** insufficient institutional support for individual litigants, where individual litigation remains the primary mechanism for enforcement, severely curtails the effectiveness of the law. Individuals experience difficulties in evidence-gathering, in insufficient safeguards against victimisation, and substantial financial difficulties in meeting the costs of litigation;

1.6 **believes** that whilst 'soft legislation' and non-legislative actions can have an impact (measures such as memoranda, resolutions, declarations, etc.) these tend to be more effective when they build on pre-existing and binding Community law. An example would be the limited success of the Commission's guidelines on the employment of disabled people (when not reinforced by Community law) in terms of national legal developments.

<sup>(1)</sup> OJ C 226 du 8.8.2000, p. 1

<sup>(2)</sup> OJ C 121 du 30.4.2004, p. 25

### (III) *Improving Data Collection, Monitoring and Analysis*

1.7 **considers** that systematic collection of data and information will provide the EU with a better overview of the location and occurrence of discrimination, better formulation of strategies and methods to improve the comparability, objectivity, consistency and reliability of data at Community level, a better gauge of the impact of policy and funding, and increased cooperation with the national university research centres, NGOs and specialist advocacy groups/centres. Local and regional authorities already play a key role in ongoing data collection and information analysis.

### (IV) *Making Full Use of EU Funding*

1.8 **notes** that despite the impact and scope of their projects, smaller NGOs and grass-roots organisations are sometimes unable to access EU funding, largely due to excessively complex bureaucracy; **believes** that small local and regional ones are finding it almost impossible to continue their work without funding.

### (V) *Reinforcing Co-operation with Stakeholders*

1.9 **welcomes** the recognition in the Green Paper of the key role of local and regional authorities, with respect to equality and non-discrimination in an enlarged European Union; as leading employers, local and regional authorities should in carrying out their functions, consider **positive action** in having due regard to: a) the need to eliminate discrimination under the directives; b) the need to eliminate harassment that is unlawful; and, c) the need to promote equality of opportunity between persons from Article 13 groups and other people.

### (VI) *Ensuring Complementarity with Other Areas of EU Policy*

1.10 **considers** that the incorporation of the Charter of Fundamental Rights will highlight areas of discrimination not covered by the existing legislation;

1.11 **questions** whether mainstreaming has been sufficiently addressed in certain policy areas, and whether certain law and policy initiatives themselves are consistent with the logic of anti-discrimination legislation and actions being taken under the auspices of Article 13;

1.12 **notes** that although mutual recognition of qualifications acquired in the EU has been enhanced, there is no agreement regarding the qualifications obtained by third country nationals in the EU, or qualifications obtained in countries

outside the EU, regardless of the nationality of the holder of these qualifications;

1.13 **deplores** inaccurate and stereotypical portrayals of various Article 13 groups which have led to the ongoing erosion of dignity and public perceptions of certain groups in public life, political rhetoric, media and advertising. This undermines the principle of equal treatment;

1.14 **welcomes** the Directive 2003/109/EC adopted in January 2004 which granted Third country nationals who have been legally resident in member states for 5 years the legal status comparable to that of citizens of member states in order to complement the Racial Equality Directive. However in order to address the issue of accession to Nationality or Citizenship or voting rights the directive needs to be better elucidated.

## 2. Recommendations

### THE COMMITTEE OF THE REGIONS

#### (I) *Meeting the Challenge of Enlargement*

2.1 **calls for** specific funding allocations and specific strands of the Action Plan to be targeted towards Roma projects;

2.2 **calls for** greater discussions, debates and education forums among all member states on the issue of social citizenship, discrimination, and fundamental human and social rights, and the establishment of consultation and monitoring processes at national level for action to combat discrimination on all grounds covered in Article 13.

#### (II) *Implementing Non-Discrimination in Law and Practice*

2.3 recalling its earlier decision, **instructs** the current Secretary General to evaluate the personnel policy and employee profile of the General Secretariat with regard to its compliance with the new legislation, and to report back both to the Bureau and this commission within six months; to commission and publish a vademecum of anti-discrimination good practice for local authorities as employers, including examples from each Member State of initiatives covering all six grounds for discrimination recognised by Article 13 EC;

2.4 **calls for** comprehensive legislation on goods and services to be extended to all areas covered in Article 13; specifically, calls for greater protection to be provided against discrimination on grounds of age, disability, gender, religion or belief, and sexual orientation;

2.5 **calls on** the Commission to work with Member States to provide for adequate, effective, proportionate and dissuasive sanctions and procedures against breaches of the obligations under the Directives, and to accelerate the transposition of these into national law;

2.6 **calls for** greater institutional support for individuals seeking legal redress for all Article 13 groups; organisations with a legitimate interest should be able to bring enforcement actions on behalf of, or in support of, individual complainants, with that individual's approval; where presumption of discrimination is established (i.e. facts from which it may be presumed that there has been direct or indirect discrimination), burden of proof should always shift to the respondent; any adverse treatment or consequence as a reaction to a complaint should be prohibited.

*(III) Improving Data Collection, Monitoring and Analysis*

2.7 **calls for** increased cooperation with Member States and national authorities to improve monitoring and reporting mechanisms.

*(IV) Making Full Use of EU Funding*

2.8 **calls on** the Commission, in collaboration with European level EU- funded NGOs, to seek creative methods of allowing small NGOs to access smaller levels of funding.

*(V) Reinforcing Cooperation with Stakeholders*

2.9 **commits** the CoR to the development of the EU anti-discrimination agenda and considers that its involvement in the

setting, planning, communication and implementation of this agenda should be further promoted with all stakeholders;

2.10 **requests** that the CoR should be invited as a matter of course to EU conferences and seminars dealing with equality and non-discrimination and particularly in the issues of discrimination against the Roma;

2.11 **calls for** greater consultation with representatives from civil society during the process of implementation;

2.12 **calls on** all EU institutions to better reflect the letter and spirit of the anti-discrimination directives via: a) comprehensive equalities policies, in terms of recruitment, employment and services; (b), the political members and organs of the EU bodies should be balanced in terms of the Article 13 groups.

*(VI) Ensuring Complementarity with Other Areas of EU Policy*

2.13 **calls on** the Commission to indicate how it intends to integrate groups covered by the Charter of Fundamental Rights into the existing Directives on non-discrimination, given that they will be incorporated into the new Treaty;

2.14 **recommends** that for mainstreaming equality there must be mechanisms to ensure that equality issues and principles are given due regard in the formulation, administration and evaluation of all policies;

2.15 **recommends** that the Commission work closely with the CoR to help local and regional authorities draw up equalities action plans and submit reports on actions taken to the relevant equality bodies in the member states.

Brussels, 18 November 2004.

The President  
of the Committee of the Regions  
Peter STRAUB

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