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II

(Preparatory Acts)

COMMITTEE OF THE REGIONS

56th PLENARY SESSION ON 29 AND 30 SEPTEMBER 2004**Opinion of the Committee of the Regions on the Mid-term review of the Lisbon Strategy:**

- **Communication from the Commission on Strengthening the implementation of the European Employment strategy**
- **Proposal for a Council Decision on guidelines for the employment policies of the Member States**
- **Recommendation for a Council Recommendation on the implementation of Member States' employment policies**

(2005/C 43/01)

THE COMMITTEE OF THE REGIONS,

Having regard to the *Mid-term review of the Lisbon Strategy: Communication from the Commission on Strengthening the implementation of the European Employment Strategy; Proposal for a Council Decision on guidelines for the employment policies of the Member States; Recommendation for a Council Recommendation on the implementation of Member States' employment policies (presented by the Commission)* (COM(2004) 239 final – 2004/0082 (CNS));

Having regard to the decision of the European Commission on 7 April 2004 and of the Council on 16 April 2004, under the first paragraph of Article 265 and of Article 128 of the Treaty establishing the European Community, to consult it on this matter;

Having regard to the decision of its president on 5 April 2004 to instruct its Commission for Economic and Social Policy to draw up an opinion on the subject;

Having regard to its draft opinion (CdR 152/2004 rev. 1) adopted on 6 July 2004 by the Commission for Economic and Social Policy (rapporteur: **Ms Pauliina Haijanen**, Member of the Board of the Regional Council of Southwest Finland, First Vice-chairman of Laitila Town Council (FI/EPP);

adopted the following opinion at its 56th plenary session on 29 and 30 September 2004 (session of 29 September).

1. The Committee of the Regions' viewsOverall priorities of the Lisbon strategy

THE COMMITTEE OF THE REGIONS

1.1 **believes** that in implementing the Lisbon strategy the primary focus should be on improving employment and competitiveness. No new processes should be initiated or new objectives set; rather, the emphasis should be on effective implementation of earlier decisions;

1.2 **considers it important** that a sound macro-economy based on the sustainability of public finances and economic

policies geared to sustainable growth be adopted as the starting point for the Lisbon strategy;

1.3 **feels it is important** to see economic, employment and social policy, environmental policy and education and research policy as integrated and complementary elements in the Lisbon strategy to support competitiveness, economic growth and social cohesion. Interaction between social protection systems, the economic policy guidelines and the employment process should be further deepened;

1.4 **thinks** that structural reforms, support for research and innovation, promotion of entrepreneurship and development of education and training are key factors for improving EU competitiveness, fostering investment and the creation of new jobs;

1.5 **believes** that population ageing poses major challenges for the sustainability of public finances and the development of services and that this calls for effective measures for developing work and encouraging people to stay in employment;

1.6 **feels** that local and regional authorities have a key role to play and important practical tasks to perform in achieving the Lisbon strategy and strengthening its implementation, but that this potential has not been exploited sufficiently.

2. The Committee of the Regions' recommendations

Mid-term review of the Lisbon strategy

THE COMMITTEE OF THE REGIONS

2.1 **considers it essential** that in implementing the Lisbon strategy greater attention be paid to interaction between the various levels involved in implementation and to developing administrative mechanisms that enable partnerships to be built and effective participation by local and regional authorities in implementing the strategy;

2.2 **endorses** the goals set by the spring European Council for the mid-term review of the Lisbon strategy and **proposes** that the review include a critical assessment of the implementation of governance and of the added value brought to the implementation of the strategy by the decentralisation of administration;

2.3 **feels** that a decentralised approach should be adopted in applying the open coordination method thereby providing local and regional players with real opportunities to develop local and regional strategies. These strategies should be part of the national strategy. Member States' national action plans should contain a factual account of how local and regional authorities participated in drawing up the plans and how they will be involved in their implementation;

2.4 **stresses** that the open coordination method should be simplified so that, rather than detailed goals and performance indicators, greater emphasis is placed on forward-looking strategic policies and how these will be effectively implemented in practice;

2.5 **believes it is important** that the Union's new financial framework and Structural Fund activities be tied more closely than at present to the implementation of the Lisbon strategy.

Strengthening the employment strategy

THE COMMITTEE OF THE REGIONS

2.6 **agrees** with the Commission that no changes must be made to the guidelines but rather that the focus should be on the effective implementation of the existing guidelines;

2.7 **believes that** in some cases, it could be appropriate that, in addition to country-specific recommendations, Member States be given common recommendations in accordance with the recommendations of Wim Kok's Taskforce. In such cases, one should clarify the relation between the common recommendations and the overarching objectives set in 2003;

2.8 **feels** that there has not been sufficient compliance with the requirement contained in the 2003 guidelines concerning the need to support participation by players at local and regional level in the developing and implementing the guidelines;

2.9 **considers it essential** that greater importance be attached to governance in the employment strategy and that the implementation of governance be critically assessed in the 2005 Joint Employment Report;

2.10 **endorses** the Commission's recommendations on active ageing strategies but **believes** that employment policy should focus more on improving labour supply by paying particular attention to, among others, women, older people, young people, the disabled and immigrants and by promoting the functional capacity and health of the entire population;

2.11 **feels** that structural reforms in the labour market and changes in tax and benefit systems should be designed so as to make work pay and encourage people to remain in the labour market;

2.12 **thinks that it is important** to help the new Member States develop their labour markets also by strengthening the capacity of local and regional authorities and supporting cooperation and exchange of experience between the local and regional level in the old and new Member States.

Brussels, 29 September 2004.

The President
of the Committee of the Regions
Peter STRAUB

Opinion of the Committee of the Regions on Frontier workers: Assessment of the situation after ten years of the Internal Market: Problems and Perspectives

(2005/C 43/02)

THE COMMITTEE OF THE REGIONS

HAVING REGARD TO the decision of its Bureau of (10 February 2004) in accordance with Article 265(5) of the Treaty establishing the European Community, to instruct its Commission for Economic and Social Policy to draw up this opinion, Frontier workers: Assessment of the situation after ten years of the Internal Market: Problems and Perspectives;

HAVING REGARD TO the consolidated version of the Treaty establishing the European Community of March 1957, and in particular Title III: Free movement of persons, services and capital, Chapter 1: Workers, Articles 39 and 42, Chapter 2: Right of establishment, Article 43;

HAVING REGARD TO the rules on the coordination of national social security systems, which are part of the free movement of persons and which are intended to contribute to the improvement of living and working conditions;

HAVING REGARD TO Council Regulation (EC) No. 118/97 of 2 December 1996 amending and updating Regulation (EEC) No. 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, and Regulation (EEC) No. 574/72 laying down the procedure for implementing Regulation (EEC) No. 1408/71, as it is to be amended;

HAVING REGARD TO Regulation (EEC) No. 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community;

HAVING REGARD TO the judgments of the European Court of Justice on cross-border workers, cross-border medical goods or services and regarding labour law and re-entry into employment;

HAVING REGARD TO the meeting of the Council of the European Union (Employment, Social Policy, Health and Consumer Protection) of 1 December 2003, agenda item 3, proposal for a Regulation of the European Parliament and of the Council coordinating social security systems (reform of Regulation (EEC) No. 1408/71);

HAVING REGARD TO the common position of the Council of 28 January 2004 with a view to the adoption of a Regulation of the European Parliament and of the Council coordinating social security systems;

HAVING REGARD TO the decision of the Copenhagen European Council of 13 December 2002 on the accession to the European Union on 1 May 2004 of Estonia, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia, the Czech Republic, Hungary and Cyprus and of the informal Athens European Council of 16/17 April 2003 on the signature of the Accession Treaty and the Europe Conference;

HAVING REGARD TO the Europe Agreements with the Central and Eastern European Countries: the Agreements of December 1991 concluded with Hungary and Poland, that of February 1995 with Romania and Bulgaria, the Czech Republic and Slovakia, that of February 1998 with Estonia, Latvia and Lithuania, and that of February 1999 with Slovenia, as well as the Association Agreements existing since 1964 with Turkey, 1971 with Malta and 1973 with Cyprus;

HAVING REGARD TO the accession perspectives established by the Copenhagen European Council of June 1993, as set out in the 'Copenhagen criteria';

HAVING REGARD TO the Treaty on European Union signed in Maastricht on 7 February 1992 ('Maastricht Treaty'), which states that any European state may apply for membership of the EU;

HAVING REGARD TO the draft opinion adopted by the Commission for Economic and Social Policy on 30 April 2004 (CdR 95/2004 rev. 1) (rapporteur: **Mr Karl-Heinz Lambertz**, First Minister of the German-speaking community, (BE/PES));

Whereas:

1. **Regulation (EEC) No. 1408/71 defines a 'frontier worker'** as 'any employed or self-employed person who pursues his occupation in the territory of a Member State and resides in the territory of another Member State to which he returns as a rule daily or at least once a week'.
2. Free movement of employed workers and their equal treatment in terms of work and employment conditions (wages, protection against dismissal, re-entry into employment, tax and social benefits) are mainly dealt with in **Regulation (EEC) No. 1612/68**.
3. The principle of equal treatment applies to all frontier (and migrant) workers living and working in the EU.
4. Social protection is regulated by **Regulation (EEC) No. 1408/71** and the corresponding **Implementing Regulation No. 574/72**. The aim of these is to coordinate the social security systems of the Member States.
5. In accordance with these regulations, the frontier worker is in principle covered by the rules and regulations of the country in which he works.
6. The EU accession of ten central and eastern European countries will lead to a new situation with regard to migration (migrant workers) and the frontier worker phenomenon, as well as to effects on the European labour market.
7. The eastern border areas of EU Member States like Austria and Germany are particularly geographically exposed in the context of enlargement. They have borders with Slovenia, Slovakia, Hungary, Poland and the Czech Republic and must initially expect an increase in cross-border movements. The effects of EU enlargement can, however, also offer opportunities, e.g. the chance to regulate migration which was previously illegal and the fact that migration will no longer be restricted to border regions, but will move to areas where there is a labour shortage.
8. EU enlargement will probably create administrative, legal or tax barriers to mobility in addition to those already facing every frontier worker in the EU.

unanimously adopted the following opinion at its 56th plenary session of 29/30 September 2004 (meeting of 29 September):

1. Views of the Committee of the Regions

THE COMMITTEE OF THE REGIONS

1.1 notes that:

1.1.1 the concept of frontier worker varies from one border region to another in line with the tax and social security law criteria applied in the country of residence or employment and the border commuters' active or inactive status; that there is no generally applicable definition of the concept embracing tax, legal and social-security components;

1.1.2 there is no Community-wide coordination of tax agreements or coordination between tax and social security agreements for cross-border activity, despite the significant achievements of Regulation (EEC) No. 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, and Regulation (EEC) No. 574/72 laying down the procedure for implementing Regulation (EEC) No. 1408/71;

1.1.3 there is no Community-wide approach to the conditions for access to services, in the absence, for example, of a common definition of invalidity, or a common approach to the assessment of the degree of invalidity, or given the continuing differences in the systems for the calculation of insurance periods;

1.1.4 the principle that all frontier workers living and working in the EU should receive equal treatment is being respected but not always correctly applied; a definition of this principle does, however, exist, with regard to employment and working conditions, in Regulation (EEC) No. 1612/68;

1.1.5 national practices exist which impede the guaranteed freedom of movement for frontier and migrant workers, and that the European Court of Justice – in particular on the basis of Articles 39, 42 and 43 of the EC Treaty – is helping frontier workers encountering discrimination to assert their rights against national decisions and regulations, and is thus creating European social law;

1.1.6 after many years of additions designed to take account of changes in national rules, improve certain provisions, close loopholes and lay down rules on the insurance position of certain groups of persons, Regulation 1408/71 has become very large, complicated and opaque;

1.1.7 in the absence of uniform national data, there is no reliable statistical information giving an overview of the situation of frontier workers at European level;

1.1.8 it is estimated that less than 0.5 % of employed workers in the European Union are frontier workers;

1.1.9 there is a lack of forward-looking Community management of the specific and additional problems affecting frontier workers from the new Member States and that this management must mean more than the information distributed by EURES offices;

1.2 *considers that*

1.2.1 progress on European integration should be matched by progress on the free movement of persons and that this must be made a joint priority task for all the Member States and the European Union;

1.2.2 the question as to why – after completion of the internal market and the introduction of a single currency – there are still so few frontier workers is a relevant one. One of the aspects that should be improved on, therefore, is access for jobseekers and employers to an information and advice service to facilitate the mobility of the workforce and transparency in the EU labour market;

1.2.3 the vision of a united Europe, particularly in frontier regions – which should be cutting edge and engine of the integration process – is in this way losing credibility;

1.2.4 the question of frontier and migrant workers will be placed in a new light by the accession of ten new central and eastern European Member States, particularly in the current eastern border regions, and that forward-looking management of the expected trends should therefore be stepped up as a matter of urgency;

1.3 *welcomes*

1.3.1 the European Commission's initiative aimed at reducing obstacles to the mobility of workers in the European Union and at ensuring that everyone's social security entitlements are respected as well as the reform of Regulation 1408/71, now adopted, and Regulation 883/04, which should bring improvements for frontier workers with regard to sickness cover and family benefits;

1.3.2 the Commission's objective of coordinating the social security systems of the Member States, which should put into effect in the interest of Europeans and of the construction of a Social Europe;

1.3.3 Decision No. 189 of the Administrative Commission of the European Communities on social security for migrant workers of 18 June 2003 aimed at introducing a European health insurance card to replace the forms necessary for the application of Council Regulations (EEC) No. 1408/71 and (EEC) No. 574/72 as regards access to health care during a temporary stay in another Member State;

1.3.4 the common position of the Council of 28 January 2004 with a view to the adoption of a Regulation of the European Parliament and of the Council coordinating social security systems;

1.4 *considers that*

1.4.1 even when these proposed improvements are implemented they will by no means overcome all the obstacles in this area;

1.4.2 further problems but also opportunities might arise in relation to frontier workers as a result of the EU enlargement;

1.4.3 the development of Community-wide social law should not be left mainly to the European Court of Justice, but should itself actively contribute to solving frontier worker problems;

1.4.4 border regions are usually particularly dependent for their economic development on the components of the cross-border labour market and that this will be particularly true of the new border regions after enlargement.

2. Recommendations of the Committee of the Regions

THE COMMITTEE OF THE REGIONS

2.1 **recommends** that the European Commission forward all information on problems encountered by frontier workers to one of the existing bodies, such as the Administrative Commission on Social Security for Migrant Workers set up by Regulation (EEC) No. 1408/71, or the Technical Committee promoting and advancing cooperation between the Member States on freedom of movement of workers and their employment set up by Regulation (EEC) No. 1612/68;

2.2 **proposes** that the body assuming this task:

2.2.1 collect (and collate) this information from all relevant political bodies and institutions, e.g. information relating to:

2.2.1.1 the remit extending to the EU Member States, the EFTA-EEA states and states with which the EU has concluded bilateral agreements which also touch on free movement of persons,

2.2.1.2 existing multilateral agreements such as the Benelux Treaty,

2.2.1.3 existing joint coordination efforts by Member States,

2.2.1.4 Community agreements and rules, the experience of the European Commission (DGV),

2.2.1.5 the experience of the AEBR,

2.2.1.6 the experience of parties involved with the problems of frontier workers and organisations concerned with the elimination of barriers to the free movement of persons;

2.2.2 asks how, on the basis of existing agreements, this experience can be exploited for the reduction of obstacles to intra-European mobility of persons and for improved coordination of the social security systems of the Member States and thus, *inter alia* in the light of enlargement, to promote the construction of a Social Europe more effectively.

2.2.3 At the same time, in order to avoid overlap with existing bodies, such as the agency for migration issues or the Schengen office:

2.2.3.1 the flow of information and cooperation between all players should be coordinated and promoted to the greatest possible extent;

2.2.3.2 Community statistics on frontier worker numbers should be prepared;

2.2.3.3 proposals on a Community social security and tax law definition of active and passive frontier commuters and migrant workers should be prepared;

2.2.3.4 proposals to improve the level of information and training of the administrative authorities responsible for the problems of frontier workers should be drawn up;

2.2.3.5 proposals to simplify and develop the relevant regulations should be prepared;

2.2.3.6 regional cross-border offices dealing with the problems of frontier workers should be set up which would be empowered to establish on their own initiative temporary working groups to look into specific issues relating to the elimination of obstacles to the free movement of frontier workers in European border areas.

2.3 **proposes** that the regional, cross-border offices dealing with the problems of frontier workers:

2.3.1 be set up within local authorities involved in cross-border activities or at existing EURES offices;

2.3.2 gather information on the specific situation of individual border regions and list specific problems;

2.3.3 check draft national and international regulations, agreements and laws for their compatibility with the rights of frontier workers;

2.3.4 notify, where appropriate, the competent national or supranational bodies of any detrimental effect on freedom of movement for migrant workers of the implementation of draft national and international regulations, agreements and laws and propose solutions to the partners concerned;

2.3.5 bilaterally involve the responsible experts from the competent national government departments in the event of specific problems between the Member States in question (e.g. with regard to double taxation agreements, nursing care insurance, child benefit for the families of frontier workers etc), and arrange for them to be assisted by local and/or regional experts;

2.3.6 submit proposed bilateral administrative or legislative solutions to the competent government departments within a short timespan and assist with their implementation;

2.3.7 be professionally staffed and managed;

2.4 **proposes that**, in view of the extended remit of the local authorities or existing EURES offices housing the regional offices dealing with the problems of frontier workers, the necessary funding be provided by the EU.

Brussels, 29 September 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: *Increasing the employment of older workers and delaying the exit from the labour market*

(2005/C 43/03)

THE COMMITTEE OF THE REGIONS,

having regard to the Communication to the Commission, the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: *Increasing the employment of older workers and delaying the exit from the labour market* (COM(2004) 146 final);

having regard to the decision of the European Commission of 3 March 2004 to consult the Committee on this text under Article 265(1) of the Treaty establishing the European Community;

having regard to the decision taken by the CoR President on 27 January 2004 to instruct the Commission for Economic and Social Policy to draw up an opinion on the subject;

having regard to the Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions (report requested by the Stockholm European Council): *Increasing labour force participation and promoting active ageing* (COM(2002) 9 final);

having regard to the CoR opinion on the Commission Report entitled *Increasing labour force participation and promoting active ageing* (CdR 94/2002 fin) ⁽¹⁾;

having regard to the Commission communication: *Supporting national strategies for safe and sustainable pensions through an integrated approach* (COM(2001) 362 final);

having regard to the conclusions of the Stockholm European Council, 2001;

having regard to the conclusions of the Barcelona European Council, 2002;

having regard to the Report from the Commission to the Council: *Delivering Lisbon-reforms for the enlarged Union* (COM(2004) 29 final/2);

having regard to the Commission's working document on *The Stockholm and Barcelona targets: Increasing employment of older workers and delaying the exit from the labour market* (SEC(2003) 429);

having regard to the report by the Employment Taskforce chaired by **Wim Kok**: *Jobs, jobs, jobs: creating more employment in Europe*, November 2003;

having regard to the Joint report 2003-2004, *Employment policies in the EU and in the Member States*, 2004;

having regard to the draft opinion (CdR 151/2004 rev.1) adopted by the Commission for Economic and Social Policy on 6 July 2004 (rapporteur: **Alvaro Ancisi**, member of the municipal council of Ravenna (IT/EPP));

Whereas:

1. active ageing and the participation of older workers in the labour market are priorities for action to achieve the objectives of sustainable economic growth and social cohesion laid down by the Lisbon strategy of 2000;
2. the Stockholm European Council of 2001 laid down a Community objective for 2010 of raising to 50 % the average employment rate in the 55-64 age group;

⁽¹⁾ OJ C 287 of 22.11.2002, p.1

3. the Barcelona European Council of 2002 concluded that there is a need gradually to increase by about five years the average age at which workers retire in the European Union;
4. despite the positive trend of the last few years, the EU is still very far from achieving the two objectives it set itself, and it runs the risk of failing to meet the 70 % employment rate objective laid down in Lisbon;
5. there are still considerable disparities between one country and another, despite the fact that a growing number of Member States are implementing their own national strategies, in particular for reform of the pension system;
6. the gender difference in participation in the labour market is a critical point, and the female employment rate in the 55-64 age group is about 30 % on average;
7. the ageing of the European population means that the over 50s tend to account for the highest percentage of the potential labour force and that a lower percentage of young people is entering the labour market;
8. an increase in labour market participation by older workers is essential to maintain economic growth and the social protection systems;
9. the increase in life expectancy offers greater opportunities to realise one's potential throughout one's life, and the prolongation of active life can make possible greater development of human potential;

adopted the following opinion at its 56th plenary session on 29 and 30 September 2004 (session of 29 September)

1. The Committee of the Regions' views

THE COMMITTEE OF THE REGIONS

1.1 **shares** the Commission's concern that, without drastic action on employment of the older population, the employment objectives of the EU may not be met;

1.2 **agrees with** the analysis of the specific conditions which must prevail on the labour market to make possible a lengthening of working life, such as appropriate financial incentives, good health and safety conditions at work, flexible forms of work organisation, permanent access to training, effective pro-active policies for the labour market and improvement in the quality of work;

1.3 **appreciates** the fact that the Commission thinks the Member States should adopt radical measures and define in the context of active ageing an overall policy which would not merely tackle the reform of pension schemes but would promote access for all to training and active labour market policies, independently of age, and increasingly bring in working conditions throughout working life which would encourage people to remain employed;

1.4 **regards** as important the attention given to the need to increase, through specific strategies, the employment rate of women aged between 55 and 64;

1.5 **is convinced** that the social partners play a decisive role in adopting active ageing strategies and in helping to improve the quality of working life;

1.6 **is convinced** that policies and actions at Community level can help to maintain and popularise active ageing strategies.

2. Recommendations by the Committee of the Regions

THE COMMITTEE OF THE REGIONS

2.1 **stresses** that the employment of older people should be treated as a normal part of the world of work. Therefore, in strategic human resource management, it is better to speak of the management of different age groups or diversity management rather than single out older workers as a special group. All people in employment must be allowed the opportunity to reconcile work commitments with family commitments at all stages of their working life;

2.2 **agrees with** the priority strategies proposed by the Commission to encourage a profound cultural transformation which would make the most of human capital throughout life, promote active ageing, avoid the exclusion of older people and increase the employment rate of older workers, an essential component of the available workforce in the light of the expected decline in the population of working age;

2.3 **believes**, however, that this is not enough to make the most of the potential of the older population, but that it is also necessary to recognise the significant *contribution by older people to voluntary and informal activities which are socially useful*; it is therefore desirable to acknowledge the importance of all working activities, whether of economic or social significance, for the economy, individual welfare and social cohesion at local level;

2.4 **confirms**, in agreement with the Commission, that to encourage the employment of older people it is essential to promote strategies, throughout the active life cycle, to ensure good health and safety conditions at work, flexible forms of work organisation, and permanent access to training, improvement in the quality of work, and active labour market policies to ensure employability at any stage of active life;

2.5 **believes**, however, that to encourage older women to remain in work, postpone their retirement or facilitate their re-entry into the world of work and increase the female employment rate, specific measures are not enough, and that it is necessary to *implement strategies enabling women, throughout their active life cycle, to reconcile working time with time spent looking after their families;*

2.6 **hopes**, in view of the question put by the Commission about the fact that there is no empirical proof that young and older workers are interchangeable, that in the context of the strategies developed *inter-generational solidarity pacts will be tried out as part of flexible work organisation*, which would encourage the gradual withdrawal of older people from the world of work and make full use of their experience and occupational skills to assist young people;

2.7 **reiterates** the Commission's point that older workers can also benefit from their reintegration into the labour market through valuable ESF funded projects. Best practice has shown that older ex-managers are enabled to develop and update their skills to secure employment within organisations facing management skills shortages in the local labour market;

2.8 **emphasises** the importance of implementing *territorial plans for employment involving the social partners* in supporting opportunities for lifelong access to education and training, in strengthening active labour-market policies particularly as regards guidance and re-employment of unemployed older people, in identifying measures likely to enhance labour policies in terms of welfare and social cohesion, and in promoting the participation of older people in socially active life;

2.9 in the context of these strategies, the Committee of the Regions **underlines** the central role of local and regional authorities, pointing out in particular the need to give greater attention to activities and programmes falling within their specific competence or interest which make it possible to avoid a dangerous dichotomy developing between active and economically productive older workers and socially excluded older people;

2.9.1 **underlines** in particular that it is essential to recognise the functions of local and regional governments in

proposing older people's socially useful work initiatives (unpaid or partially paid voluntary work carried out by older people for the community to which they belong, community service for older people, etc.). This classification of work of considerable social importance, apart from its great significance in terms of solidarity, strengthening of inclusiveness and stimulation of the active citizenship of older people, encouragement of inter-generation relations etc., can also be accompanied by arrangements for gradual withdrawal from the labour market or can guarantee forms of re-employment for those who have left it;

2.9.2 **points out** that the objective of increasing the employment rate of women aged between 55 and 64 must necessarily involve a central role for local and regional governments in providing care and assistance services for dependent members of their families (children or non-self-sufficient adults), bearing in mind also that this age group still has considerable family care responsibilities given the current demographic trends. Moreover, just as the Commission document envisages permanent training and flexible work arrangements throughout people's working life, the CoR recommends that equal attention should be paid to training and organisational strategies and to educational, social and welfare services which could enable women to reconcile their professional work commitments with their family commitments throughout their active lives;

2.9.3 **regards** as fundamental the promotion not only of national social security and pension strategies, but also of territorial plans for employment which give responsibilities to local and regional authorities to make it possible to adopt strategies involving the social partners. Such plans should potentially involve innovative policies with the objectives of avoiding the exclusion of older people, increasing their employment rate, and making full economic and social use of their potential. Indeed, only at the level of territorial plans, which must also be supported by EU experimental and funding resources, is it possible to cover all the economic and social aspects raised by the gradual ageing of the population on the one hand and by the decline in the active population on the other.

FINALLY, THE COMMITTEE OF THE REGIONS

2.10 **confirms** the importance of the exchange of best practice between Member States, and particularly of the exchange of local and regional experience and of the extension of the Community initiatives and action plans aiming not only to encourage Member States' policies on reform of pension and social welfare schemes, but also to support social and economic policies at local level aiming to increase the employment of older workers.

Brussels, 29 September 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 and the European Parliament Crime prevention in the European Union

(2005/C 43/04)

THE COMMITTEE OF THE REGIONS

HAVING REGARD TO the Communication from the European Commission to the Council and the European Parliament on crime prevention in the European Union of 12 March 2004 (COM(2004) 165 final),

HAVING REGARD TO the Commission's decision of 22 September 2003 to consult it on the subject under the first paragraph of Article 265 of the Treaty establishing the European Community,

HAVING REGARD TO the decision of its Bureau of 1 July 2003 to instruct the Commission for Constitutional Affairs and European Governance to draw up an opinion on this subject,

HAVING REGARD TO the European Parliament resolution of 24 January 1994 on small-scale crime in urban areas and its links with organised crime ⁽¹⁾ and the European Parliament resolution of 17 November 1998 on combating organised crime ⁽²⁾,

HAVING REGARD TO the 1997 *Action Plan to Combat Organised Crime* ⁽³⁾,

HAVING REGARD TO the Vienna Action Plan of 3 December 1998 on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice ⁽⁴⁾,

HAVING REGARD TO Recommendation 1531 (2001) of the Parliamentary Assembly of the Council of Europe on security and crime prevention in cities: setting up a European observatory, and Resolution 180 (2004) of the Congress of Local and Regional Authorities of the Council of Europe on local policing in Europe,

HAVING REGARD TO the Communication from the Commission to the Council and the European Parliament – The prevention of crime in the European Union. Reflection on common guidelines and proposals for Community financial support ⁽⁵⁾,

HAVING REGARD TO its opinion of 20 November 2003 on the local and regional dimension of the area of freedom, security and justice (CdR 61/2003 fin),

HAVING REGARD TO its draft opinion (CdR 355/2003 rev. 2) adopted on 2 July 2004 by the Commission for Constitutional Affairs and European Governance (rapporteurs: **Ms Mercedes Bresso**, President of the Province of Turin (IT-PES) and **Mr Michel Delebarre**, former Minister of State – Mayor of Dunkirk (FR-PES);

Whereas:

- 1) the European Parliament adopted on 24 January 1994 a resolution on small-scale crime in urban areas and its links with organised crime and on 17 November 1998 a resolution on guidelines and measures for the prevention of organised crime with reference to the establishment of a comprehensive strategy for combating it;
- 2) the reference framework for crime prevention measures is laid down by the Treaty establishing the area of freedom, security and justice, which laid the foundations for a genuine European system of law and order whose three objectives are closely related and must be linked to the Charter of Fundamental Rights;

⁽¹⁾ OJ C 20 of 24.1.1994

⁽²⁾ OJ C 379 of 7.12.1998

⁽³⁾ OJ C 251 of 15.8.1997

⁽⁴⁾ OJ C 19 of 23.1.1999

⁽⁵⁾ COM (2000) 786 final of 29.11.2000

- 3) Article 29 of the Treaty stipulates that the Union's objective in this area is to be achieved by preventing and combating crime, organised or otherwise;
- 4) the 1998 Vienna Action Plan called for crime prevention measures to be adopted during the five years following the entry into force of the Treaty of Amsterdam;
- 5) the Tampere European Council of 15 and 16 October 1999 concluded that crime prevention measures and the exchange of best practices should be developed, that the network of competent national authorities for crime prevention and cooperation between national crime prevention organisations should be strengthened and that the first priorities for this cooperation could be juvenile, urban and drug-related crime. It called for the possibility of a Community funded programme to be explored for these purposes;
- 6) a number of seminars and conferences on crime prevention, in particular those held in Stockholm, Zaragoza and Brussels in 1996, in Noordwijk in 1997, in London in 1998 and in the Algarve in 2000, called for the development of an EU network enhancing cooperation in the field of crime prevention;
- 7) of the various conferences sponsored by the European Union, the Algarve high-level conference of 4 and 5 May 2000, played a significant role: it gave the go-ahead for the Hippocrates programme and, most importantly, laid the foundations for the Commission Communication of 29 November 2000;
- 8) this Communication defined the targets of a European crime prevention strategy: to reduce the factors which facilitate entry into the world of crime and repetition, to avoid victimisation, to reduce the sense of insecurity, to promote and disseminate a law-abiding culture and a management culture designed to avert conflicts, and to implement good governance measures in order to prevent corruption;
- 9) the policies must be multidisciplinary: crime prevention and security measures must go hand in hand with supporting social and education policies and partnerships with players on the ground, with the local authorities being given a key role;
- 10) moreover, these principles and targets make it possible to speak of a 'European model' of crime prevention, under which action of the European Union, without replacing national, regional or local action, will supplement the 'pyramid of responsibilities';
- 11) a feeling of insecurity increased slowly but surely in Europe between 1996 and 2002;
- 12) it is necessary to involve the whole of society in creating a partnership between national, local and regional authorities, non-governmental organisations, the private sector and the European people: there are many different causes of crime and they therefore need to be addressed with measures adopted at various levels by different groups of society, including civil society, in cooperation with the parties involved, with their differing experience and skills;
- 13) most of the crime committed against EU citizens takes place in urban areas; priority therefore needs to be given to proper integrated urban policies;

at its plenary session of 29 and 30 September 2004 (meeting of 29 September) adopted the following opinion by a majority:

1. The positions of the Committee of the Regions

THE COMMITTEE OF THE REGIONS

1.1 **welcomes** the fact that a process is to be set in motion for monitoring the network's activities with a view to reinvigorating European-level crime prevention policies which target non-organised crime – known as volume crime – and identify juvenile, urban and drug-related crime and crime against women and other disadvantaged groups, such as children, young people, the elderly and immigrants, as priorities;

1.2 **stresses** that, for the Member States, crime prevention policies are an area in which the European Union can contribute effectively to bringing genuine 'European added value' to national, regional or local measures;

1.3 **stresses** the need for crime prevention measures to be seen as initiatives not just addressing crime *per se* but seeking also to prevent all anti-social behaviour, to remove the causes of such behaviour and to reduce the public's feelings of fear and insecurity;

1.4 **is concerned to note**, moreover, that the Communication limits itself to dealing practically with minor issues such as defining more clearly the types of crime which need to be targeted, with no recommendations or proposals being put forward for addressing the social dimension of crime prevention;

1.5 **points out** that crime prevention – taken to mean a set of measures seeking to prevent anti-social behaviour, to remove the causes of such behaviour and to reduce the public's feelings of fear and insecurity – is a horizontal issue which touches upon many areas of public policy such as social policy, education policy, urban policy, the integration of immigrants and increasing the involvement of the citizens;

1.6 **believes** that the Commission must acknowledge the close connection between crime and anti-social behaviour and the processes of social exclusion engendered by economic and technological change in contemporary society; however, any statement to this effect must be followed up with coherent undertakings in the field of policy coordination;

1.7 **calls** for the key role of the regional and local authorities in supporting Member States' crime prevention policies to

be emphasised, along with the fact that the Commission is looking at the need to involve all the different social players; however, statements to this effect must be reflected in the way the EUCPN functions in practice, with players that are currently excluded being involved and given a role;

1.8 **is concerned to note** the structural inadequacy of the EUCPN and the fact that it is merely a facility for exchange of quite random experiences, with no working parameters or objectives.

2. The Recommendations of the Committee of the Regions

THE COMMITTEE OF THE REGIONS

2.1 **would draw attention** to the specifics of insecurity perceptions, which are, of course, a result of crime-related variables (actual risk of falling victim to crime), but also of many other social, psychological and cultural factors such as age, gender, lack of confidence in the authorities, insecure or marginal social status, the perceived crisis of society and its values, the role of the media, and the poor quality of the urban environment;

2.2 **calls on** the Commission to provide for measures within existing programmes and if necessary within new ones, to provide a support strategy for the development of security policies designed to integrate social, urban planning and education initiatives and enhance public participation and a sense of community, bearing in mind that action to enhance public security perceptions requires investment in crime prevention, social reassurance and addressing public perceptions and fears;

2.3 **underlines** the importance of the European Union's role in monitoring criminal activity at European level; in assessing national, regional and local policies and experience; and in supporting the dissemination of crime prevention and urban safety expertise and good practices across the Member States;

2.4 **asks** the Commission to ensure that the practical implementation of its instruments translates into cross-sectional, inter-disciplinary action in order to provide a genuine urban crime prevention strategy: issues such as management of public spaces, transport or disadvantaged urban areas are among those that should be at the heart of policy-making;

2.5 **asks** the Commission to make implementation of regional and local policies a priority in the 2005 budget, and to make the case for inclusion of the Municipalities and Regions at institutional level;

2.6 **highlights**, in this respect, the important role played by the European Forum for Urban Safety (EFUS) in promoting European-level awareness of crime prevention and urban safety, with particular reference to public policy appraisal and dissemination of good practice;

2.7 **would make the case** for establishing a European Observatory for urban safety as a lightweight structure in order

to equip the European Union and the Member States with a common instrument for the collection, organisation and processing of data relating to the victims of crime and perceptions of insecurity; promoting and coordinating research; designing security policies for other areas of EU competence, and for building regional and local partnerships;

2.8 and lastly, **calls on** the Commission, when framing prevention policies, always to bear in mind that these should not translate in practice into a violation of fundamental rights while meeting the security objective for citizens.

Brussels, 29 September 2004.

The President
of the Committee of the Regions
Peter STRAUB

Opinion of the Committee of the Regions on the Draft Commission decision on the application of Article 86 of the Treaty to state aid in the form of public service compensation, the draft directive amending Commission Directive 80/723/EEC on the transparency of financial relations between Member States and public undertakings and the draft Community framework for state aid in the form of public service compensation

(2005/C 43/05)

THE COMMITTEE OF THE REGIONS

Having regard to the draft Commission decision on the application of Article 86 of the Treaty to state aid in the form of public service compensation, the draft directive amending Commission Directive 80/723/EEC on the transparency of financial relations between Member States and public undertakings and the Community framework for state aid in the form of public service compensation,

Having regard to the letter sent by **Mario Monti**, member of the European Commission responsible for competition policy, on 19 March 2004 requesting the opinion of the Committee under the first paragraph of Article 265 of the EC Treaty,

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 the subject,

Having regard to Article 16 of the EC Treaty concerning services of general economic interest as well as Articles 2, 5, 73, 81, 86, 87, 88 and 295 of the Treaty,

Having regard to Article 36 of the European Charter of Fundamental Rights concerning access to services of general economic interest,

Having regard to Article III-6 of the draft European Constitution,

Having regard to the White Paper on services of general interest (COM (2004) 374 final),

Having regard to the judgment of the Court of Justice of the European Communities (hereinafter referred to as the CJEC) of 24 July 2003 in case C-280/00 (Altmark Trans),

Having regard to its opinion of 20 November 2003 on the Green Paper on services of general interest (COM (2003) 270 final, CdR 149/2003 fin) ⁽¹⁾,

Having regard to its opinion on the Communication from the Commission on services of general interest in Europe (COM (2000) 580 final – CdR 470/2000 fin) ⁽²⁾,

Having regard to the draft opinion (CdR 155/2004 rev. 1) adopted on 6 July 2004 by the Commission for Economic and Social Policy (rapporteur: **Mr Claudio Martini**, President of the Region of Tuscany (IT-PES)),

Whereas, according to the Altmark Trans judgement, compensation awarded for the provision of services of general interest does not constitute state aid and is therefore subject neither to the prior notification obligation nor to the approval of the Commission, provided four conditions are met:

- the recipient undertaking must actually be required to discharge clearly defined public service obligations;
- the parameters on the basis of which the compensation is calculated must have been established beforehand in an objective and transparent manner;
- the compensation must not exceed what is necessary to cover the costs incurred in discharging the public service obligations less the relevant receipts (it may nonetheless include a reasonable profit);
- fourth, where the undertaking which is to discharge public service obligations, in a specific case, is not chosen pursuant to a public procurement procedure which would allow for the selection of the tenderer capable of providing those services at the least cost to the community, the level of compensation needed must be determined on the basis of an analysis of the costs which a typical undertaking, well run and adequately provided with means of transport so as to be able to meet the necessary public service requirements, would have incurred in discharging those obligations, taking into account the relevant receipts and a reasonable profit for discharging the obligations;

Whereas the CJEC stated, inter alia, that, notwithstanding the further criteria listed in the Altmark Trans judgement, compensation does in any case not represent a notifiable type of state aid if the recipient is selected as part of an open and transparent public procurement procedure. In all other cases, the recipient is required to demonstrate that such compensation does not constitute state aid by proving that it received no more than the additional net costs less all receipts as would be incurred for the provision of the service at a reasonable price by any well-run undertaking with adequate personnel,

Whereas according to the Altmark Trans judgement, all other types of compensation fall into the category of state aid and are therefore subject to the rule governing prior notification,

adopted the following opinion unanimously at its 56th plenary session of 29 and 30 September 2004 (meeting of 29 September):

1. General comments of the Committee of the Regions

define their public service contracts better and this in turn will lead to greater transparency and democratic accountability in the management of services of general economic interest;

On the Altmark Trans judgment

THE COMMITTEE OF THE REGIONS

1.1 **feels that**, given that the Community legislative authority was unable to establish rules capable of providing adequate legal certainty with respect to services of general economic interest, the involvement of the Court of Justice was an absolute necessity and had considerable impact;

1.2 **welcomes** the first two criteria outlined in the Altmark Trans judgment, i.e. the need to clearly define the public service obligation with which the recipient undertaking is entrusted and to establish the parameters on the basis of which the compensation is calculated beforehand in an objective and transparent manner. These criteria require local authorities to

1.3 **notes** that public undertakings which deliver services of general economic interest may be unsure of how to understand the fourth Altmark Trans criterion which stipulates that: *'where the undertaking which is to discharge public service obligations is not chosen in a public procurement procedure, the level of compensation needed has been determined on the basis of an analysis of the costs which a typical undertaking, well run and adequately equipped so as to be able to meet the necessary public service requirements, would have incurred in discharging those obligations, taking into account the relevant receipts and a reasonable profit for discharging the obligations'*;

⁽¹⁾ OJ C 73, 23.3.2004, p. 7

⁽²⁾ OJ C 19, 22.1.2002, p. 8

1.4 **is unclear** as to the economic definition of an undertaking that is *'well run and adequately (equipped) (...) so as to be able to meet the necessary public service requirements'*, in particular given that in its judgment of 3 July 2003 on joined cases C-83/01, C-93/01 and C-94/01 (Chronopost SA), the CJEC indicated that undertakings entrusted with the management of a service of general economic interest can be *'in a situation which is very different from that of a private undertaking acting under normal market conditions'* (point 33);

1.5 **therefore feels** that a set of Community rules should be drafted in order to enforce the Altmark Trans judgment, and in particular its third and fourth criteria, and define those undertakings entrusted with the provision of a service of general interest that must comply with the requirements of that judgment, and **welcomes** the rapid action undertaken by the Commission to propose such rules;

1.6 **is concerned** that the CJEC's broad interpretation of the concept of potential allocation of intra-Community trade means that even those undertakings entrusted with discharging a public service at a strictly delimited local level may be subject to the provisions of Article 87(1);

1.7 **believes that** the administrative burden placed onto the shoulders of local authorities will be lightened in the medium term, once compensation in respect of public service obligations complying with the Altmark Trans criteria, and for which notification is not necessary, has been defined, but that this unfortunately will not guarantee full legal certainty. Rather, provision must be made for the reimbursement of state aid initially thought by a government authority genuinely to fulfil the Altmark Trans criteria and therefore to be exempt from notification, but later shown in court proceedings brought by a competitor undertaking to be illegal.

On the Commission methodology

THE COMMITTEE OF THE REGIONS

1.8 **points out** that the Green Paper comprises a series of contributions, assessed in SEC(2004) 326 of 29 March 2004, which stress the urgent need to enhance both the certainty and stability of the legal framework for services of general economic interest (hereinafter referred to as SGEL);

1.9 **feels** that, in future preparatory work, the Commission needs to better assess the interactions between competition, public procurement and state aid legislation from the stand-

point of implementation so that the opening – if desired – of service provision to private service providers can be effected smoothly and effectively;

1.10 **notes** that the CoR is bound to follow through its commitment to ensuring that greater account is taken of issues of public interest in relation to the organisation of services of general interest (hereinafter referred to as SGI), their specific nature and the responsibility of local authorities in this area. SGI are an integral part of the European social model and a balance must be established between the rights of each authority to directly oversee its own services and the requirements of CJEC case law, particularly insofar as they relate to transparency and tendering procedures;

1.11 **welcomes** the decision by the Commission to run, together with the Committee of the Regions, a series of consultations on the draft decision to exempt small-scale public funding and the draft directive amending Commission Directive 80/723/CEE on the transparency of financial relations between Member States and public undertakings;

1.12 **stresses** that this is the first time that the Commission has consulted the CoR on an area governed by Articles 81 to 93 of the EC Treaty on rules on competition;

1.13 **feels** that this consultation procedure implements for the first time the principles put forward by the Commission in the documents on the follow-up to the White Paper on European governance⁽¹⁾ and that it meets the need for greater involvement of regional and local authorities in the EU decision-making system, and in particular in those processes carried out PRIOR TO a decision;

1.14 **believes** that the dialogue initiated should be continued as part of the debate on the Commission framework for large-scale funding of public services;

1.15 **questions** the logic of allowing the debate launched in February 2004 on the Commission proposals based directly on the Altmark Trans judgment and that dealing with the White Paper on Services of General Interest⁽²⁾, published on 12 May 2004, to coincide. Indeed, the White Paper outlines the Commission's intention to adopt a series of measures aiming to clarify and simplify the legal framework for the financing of public service obligations by July 2005, whilst the majority of these elements have already been submitted for consultation as drafts.

⁽¹⁾ Cf. opinion of the CoR of 2 July 2003 on the Follow-up to the White Paper on European governance (rapporteur **Michel Delebarre** (PES/FR): COM(2001) 428 final, COM(2002) 704 final, COM(2002) 705 final, COM(2002) 709 final, COM(2002) 713 final, COM(2002) 718 final, COM(2002) 719 final, COM(2002) 725 final2

⁽²⁾ COM(2004) 374 final

On the work of the intergovernmental conference

THE COMMITTEE OF THE REGIONS

1.16 **welcomes** Article III-6⁽¹⁾ of the draft Constitutional Treaty, which stipulates that: *'European laws shall define these principles and conditions (relating to the place and role of services of general economic interest) without prejudice to the competence of Member States, in accordance with the Constitution, to provide, to commission and to fund such services'* ⁽²⁾. Given that article III-6 is a clause of general application, not curtailed by the rules on the single market and competition, and can therefore serve as an autonomous legal base, the Committee of the Regions also welcomes the scope which the Treaty provides for the adoption of common legal instruments for services of general interest.

2. Comments on the draft Commission decision on the application of the provisions of Article 86 of the Treaty to state aid in the form of public service compensation

THE COMMITTEE OF THE REGIONS

2.1 **notes** that the purpose of the proposal for a decision is to strike a balance between competition rules and the performance of SGEI tasks. The proposal defines compensation which does not comply with the Altmark Trans criteria but which can nevertheless be exempted from competition rules (Articles 87 and 88 TEC), provided that the state aid fulfils public service obligations and does not distort competition;

2.2 **notes** that, as the purpose of the decision is to define state aids exempted from the provisions of Article 88 TEC, the choice of Article 86(3) as the legal base and of a decision as the vehicle is appropriate. The undertakings concerned receive state aid, but, as suppliers of SGEI not likely to have an impact on trade, they do not have to comply with competition rules;

2.3 **endorses** the exemption from notification of the financing of hospital and social housing services, for the following reasons:

- the high unit cost of services, given the nature of the investment in infrastructure and property, and the fact that the aid is intended for income redistribution and solidarity purposes, with no impact on competition;
- the Commission's lack of administrative capacity to deal with the number of local notifications which it would receive in the absence of any exemption.

2.4 **considers**, however, that exclusion from the scope of application of the competition rules and consequent exemption from the notification requirement should be extended to

services of general interest relating to essential public authority functions, in particular social housing and public hospitals, **education and services of general social interest**, where these services perform social security and social integration functions and their general interest function cannot be performed by the market. Commission supervision should be restricted to cases of clear abuse of discretionary powers in defining the services;

2.5 **calls** on the Commission to supplement its proposals submitted for consultation by defining, inter alia on the basis of the case law of the Court of Justice, not only services deemed not to be of an economic nature and therefore excluded from the notification requirement, but also activities which, despite being partly economic, could be acknowledged to have characteristics associated with services of general interest, and could therefore qualify for special status under Article 86(2) of the TEC. The Communication announced by the Commission for Summer 2005 on social services and health could serve as an opportunity for general discussion on how such characteristics can also be inherent in economic activities;

2.6 **proposes** that the threshold values be set in such a way that, when examining individual cases, the European Commission can, in future, concentrate on untypical groups of cases of unusual economic importance. Organisations traditionally providing services of general interest in the Member States and the costs typically incurred in carrying out these tasks should therefore fall within the threshold values. The scope of the decision could in principle be extended to businesses with an annual turnover before tax, all activities included, of less than €50 million and receiving an annual amount of compensation for services provided of less than €15 million; the Transparency Directive should therefore be amended accordingly.

2.7 **questions** the exemption proposed in Article 1(iv) for compensation for maritime transport to islands covered by sectoral rules, provided that annual traffic does not exceed 100,000 passengers:

- Given the specific features of maritime transport within the Member States (maritime cabotage), would it not be more appropriate to adopt a separate legal act on the basis of Article 73 of the Treaty?

- If the principle of the exemption proposed in Article 1(iv) is accepted, will the annual volume of traffic be calculated by reference to a) the link or b) the volume transported by the public service undertaking?

⁽¹⁾ Due to renumbering of the draft constitutional treaty as proposed by the Intergovernmental Conference in document CIG 87/1/04, 13 October 2004, Article III-6 has become Article III-122.

⁽²⁾ See Presidency document 76/04 of 13 May 2004.

2.8 **considers** that, where compensation satisfies the conditions set out in Article 5 of the proposal for a decision, there is no clear need for prior notification;

2.9 **notes** that the definition of compensation in Article 5 is liable to misinterpretation, as the term refers exclusively to transfers between the public authority and the SGEI enterprise, intended to cover structural or cyclical operating deficits. Land costs and amortisation of operating tariffs should, however, also be covered;

2.10 **considers** that the separate accounting requirement of Article 6 is likely to give rise to additional costs for small and medium-sized enterprises which are covered by the exemption provided for in this decision. The obligation should therefore be dropped;

2.11 **notes** that Article 7 requires that the Commission be provided with information on the definition of compensation. This appears unnecessarily demanding, in view of the time-scales involved. Moreover, requiring public authorities to lay down rules defining compensation, or to set up compensation databases seems excessively bureaucratic.

3. Comments on the draft Commission Directive amending Directive 80/723/EEC of 25 June 1980 on the transparency of financial relations between Member States and public undertakings

THE COMMITTEE OF THE REGIONS

3.1 **considers** that the Altmark Trans judgment has effects on the transparency obligations which render the directive currently in force partially ineffective, as it is no longer possible to establish whether compensation is effectively used to fulfil public service obligations and not also to cover the costs of commercial activities. The case law of the Court of Justice allowing compensation to be deemed not to constitute state aid vitiates the provisions of the directive requiring the assessment of transparency in relation to all SGEI undertakings receiving compensation not classified as aid. Hence the need to reform the directive and replace the concept of state aid with that of public service obligation compensation;

3.2 **disapproves of** the Commission's proposal to abrogate Article 4(2)(c), as this would extend the scope of the separate accounting obligation, even to undertakings receiving compensation meeting the Altmark Trans criteria or covered by exemptions proposed by the Commission.

4. Draft Community framework for state aid in the form of public service compensation

THE COMMITTEE OF THE REGIONS

4.1 **notes** that point 5 of the draft framework stipulates that it should apply 'without prejudice to the Community provisions in force in the field of public procurement'. There is also a similar reference in Recital 22 of the draft decision.

With regard to assigning a public service obligation to a company, these references should be taken to mean that whenever a company is chosen under a transparent and non-discriminatory public procurement procedure, it is presumed that over-compensation has not taken place and that state aid is therefore legal.

However, the use of a public procurement procedure to impose a public service obligation on a company is optional, and is not a requirement for fulfilling the conditions for the legality of state aid.

4.2 **questions** the proposal that the parameters for calculation (point 10, 5th paragraph) could 'include the specific costs actually borne by the undertakings in the regions referred to in Article 87(3)(a) and (c) of the EC Treaty'.

Such a proposal could easily create unnecessary confusion, given that the objective of the draft framework should always be to reflect 'specific costs actually borne' by a company in fulfilling a public service obligation, irrespective of location.

In addition, the proposed wording could be taken to mean that compensation for public service obligations is comparable to regional state aids.

Brussels, 29 September 2004

The President
of the Committee of the Regions
Peter STRAUB

Opinion of the Committee of the Regions on the Proposal for a Directive of the European Parliament and of the Council on services in the internal market

(2005/C 43/06)

THE COMMITTEE OF THE REGIONS,

Having regard to the proposal for a Directive of the European Parliament and of the Council on services in the internal market (COM(2004) 2 final – 2004/0001 (COD));

Having regard to the decision of the Council of 20 February 2004 to consult it on this subject, under the first paragraph of Article 265 and Articles 71 and 80 of the Treaty establishing the European Community;

Having regard to the decision of its President of 5 April 2004 to instruct its Commission for Economic and Social Policy to draw up an opinion on this subject;

Having regard to the Commission Communication to the Council and the European Parliament entitled *an internal market strategy for services* (COM(2000) 888 final);

Having regard to its opinion CdR 134/2001 fin of 13 June 2001 ⁽¹⁾ on the Commission Communication entitled *an internal market strategy for services*;

Having regard to the report from the Commission to the Council and the European Parliament entitled *the state of the internal market for services* (COM(2002) 441 final);

Having regard to the draft opinion CdR 154/2004 rev. 1 adopted on 6 July 2004 by its Commission for Economic and Social Policy (rapporteur: **Mr Schröter**, Chairman of the Thüringen Land Parliament's Committee for European and Federal Affairs (DE/EPP));

Whereas:

- 1) services play a key role for the EU economy;
- 2) the services sector's considerable potential for growth and employment could not be fully exploited so far because of numerous obstacles impeding the development of services;

adopted the following opinion at its 56th plenary session held on 29 and 30 September 2004 (meeting of 30 September):

Comments and recommendations of the Committee of the Regions

1. The Committee of the Regions' views

THE COMMITTEE OF THE REGIONS

1.1 **welcomes** the Commission proposal for a European Parliament and Council Directive on services in the internal market, which is designed to reduce the barriers still impeding the creation of a real internal market in services in the EU;

1.2 **emphasises** that in order to achieve the target set by the European Council at its meeting in Lisbon of making the EU the most competitive and dynamic knowledge-based economy in the world by 2010, it is also vital to finish building a real internal market in services;

1.3 **points to** the report on the state of the internal market for services, which states that a decade after the envisaged completion of the internal market, there is a huge gap between the vision of an integrated EU economy and the reality as experienced by European citizens and European service providers;

1.4 **supports** the aim of creating a legal framework that is to eliminate the obstacles and barriers still impeding the freedom of establishment for service providers and the free movement of services between the Member States. Both the providers and recipients of services are to be given the legal certainty they need in order to ensure that the freedom of establishment and the freedom to provide services can both be exercised as fundamental freedoms;

1.5 **considers it right** that the Directive is to be based in principle on the country of origin principle. This means that service providers are initially only to be subject to the laws of the Member State in which they are established. This principle assumes a comparable level of protection in each Member State, i.e. that health and consumer provisions and other safety standards are generally comparable. Essentially, the principle of mutual recognition, which is a cornerstone of the internal market in the free movement of goods, is thus to be extended to the services sector;

⁽¹⁾ OJ C 357 of 14.12.2001, p. 65

1.6 **regards its as important** that service providers are thus to be given the chance to enter the markets in other Member States on terms with which they are familiar;

1.7 **points out**, however, that the content and scope of application of the country of origin principle are not clearly defined in the proposed Directive. Application of the country of origin principle would give rise to problems, particularly in social and health services. Supervision of these services must in all cases be carried out in accordance with the laws of the Member State of destination, by the authorities of that Member State;

1.8 **considers** the proposals on administrative simplification **to be sensible** in principle. The proposed simplification of procedures and the use of electronic means to complete procedures are vital for the establishment of a free market in services;

1.9 **considers it extremely important** that the Directive lays down rules on the mutual provision of information and communication in order, on the one hand, to grant service providers real access to a common market and, on the other hand, to enable recipients of services to use services free of risk throughout the Community;

1.10 **welcomes** the fact that the proposed directive is based on Member States' mutual trust and support and makes provision inter alia for joint checks on existing provisions to ensure that they are compatible with the aim of establishing a free market in services.

2. The Committee of the Regions' recommendations

THE COMMITTEE OF THE REGIONS

2.1 **supports** the framework Directive's horizontal approach. This makes it possible to dispense with detailed provisions and not to harmonise all of the relevant provisions in the Member States;

2.2 **emphasises**, however, that the danger of this horizontal approach is that it may overlap with existing Community provisions for specific sectors;

2.3 **welcomes** therefore that the Directive makes provision for a number of general derogations in order to prevent such overlaps. These derogations concern financial services, electronic communication services and networks relating to the 'telecom package', and services in the transport sector. Taxation and activities associated with the exercise of official authority are also expressly excluded;

2.4 **points out**, however, on the other hand, that in principle the intention is for the Directive to apply cumulatively in conjunction with other existing Community legal acts;

2.5 **fears** therefore that, in particular, existing provisions for specific sectors may be undermined as a result, for in practice, the proposed Directive will always come into play in cases not covered by the special provisions. In case of doubt it is to be assumed that the existing sector-specific provisions already regulate the relevant areas definitively and/or that individual points of detail have deliberately not been regulated;

2.6 **urges** therefore that the Directive's cumulative application be expressly excluded in areas in which definitive special sector-specific provisions exist. It is necessary to rule out the creation of new supplementary provisions by the Directive in such cases;

2.7 **recognises** that the purpose of the planned general derogations from the country of origin principle is to ensure consistency with existing legal acts. The country of origin principle will not be applicable to service sectors where sector-specific provisions already apply or are planned. Examples of this include: postal services, electricity, gas and water supplies, posting of workers, waste transport, recognition of professional qualifications, and authorisation schemes relating to the reimbursement of the costs of hospital care;

2.8 **points out** that the country of origin principle may penalise honest businessmen and consumers, since it makes it possible to circumvent exacting domestic standards relating to professional qualifications or the quality of service provision. Therefore, it is necessary to stop the country of origin principle being used merely for the purpose of circumventing national provisions governing economic activity;

2.9 **would also point out** that the draft Directive makes no reference whatsoever to the draft Directive currently being discussed on working conditions for temporary workers (COM(2002) 149);

2.10 **notes**, however, that although the Directive is not to be applicable, it lays down supplementary competing provisions for some of these areas. This concerns in particular the following areas: recognition of professional qualifications to be supplemented by provisions on professional insurance and commercial communications, posting of workers to be supplemented by provisions which extend beyond purely administrative matters, and supplementary provisions covering the reimbursement of treatment costs;

2.11 **fears** that this may lead to a plethora of competing provisions and a lack of transparency;

2.12 **therefore urges** that the Directive's rules which could be laid down equally well in existing or planned special provisions should also be laid down in such special provisions. This will also avoid having to discuss a specific sector in the course of further deliberations on the subject of this Directive. As the negotiations hitherto about the Directive have shown, the danger of having to do this has already been spotted in a number of areas;

2.13 **sees this problem** of competition with special provisions particularly in connection with the proposed provisions on the posting of workers;

2.14 **notes** that apart from procedural rules and rules on competences – as a departure from the country of origin principle the Member State of posting is declared to be competent – the Directive also contains further substantive provisions which directly follow on from the current Directive on the posting of workers in the framework of the provision of services, and therefore supplement or compete with that Directive. The measures which Member States are permitted to take in carrying out their checks are specified and thus limited. Article 17(5) of the draft Directive lays down a derogation from the country of origin principle for the Directive on the posting of workers, but the Committee firmly believes that the ban on the imposition of any obligations laid down in Article 24 of the draft Directive renders the derogation in Article 17(5) absurd, for the question of how the Member State of origin is to learn of any infringements in the Member State of posting (which is no longer able to exercise supervision and impose penalties) remains open. Even if this were to be possible, the question of how the Member State of origin is to take action in another country where it has no jurisdiction also remains open;

2.15 **points out** that as a result the danger of checks being less effective is partly recognised and that therefore the provisions in the proposed Directive definitely have a direct impact on the Directive on the posting of workers in the framework of the provision of services;

2.16 **therefore considers it appropriate** that the provisions relating to checks under the Directive on the posting of workers in the framework of the provision of services should also be laid down in that Directive insofar as such checks are necessary in practice;

2.17 **thinks** that the Directive fails to clarify to what extent it is to apply to the extremely sensitive area of services of general economic interest. It is recognised that it is a matter for the competent national, regional or local authorities to define, organise, finance and monitor services of general interest;

2.18 **points out** that inclusion of services of general economic interest in the scope of the services Directive and the objective being pursued therein of developing the single market

further and guaranteeing an area free of internal borders for services of general economic interest, too, would considerably restrict the competent national, regional and local authorities' freedom to act;

2.19 **therefore expressly welcomes** the fact that in talks held to date on the Directive, the Commission has explained that the Directive is in no way targeting the special features of services of general interest and intends neither to liberalise nor to abolish monopolies;

2.20 **notes** that this point is not, however, reflected in the Directive itself so far;

2.21 **therefore demands** that this matter be rectified and that services of general interest be excluded as a matter of principle from the Directive's scope (and not only in part from the application of the country of origin principle), in order to avert any discussion when the time comes to implement the Directive and so as to avoid the need to have to harmonise this sector in the short term with the aid of Community-wide provisions. This would also tally with the Commission's position as expressed in the recent White Paper on services of general interest;

2.22 **emphasises** that in this connection special attention must be paid to the sensitive area of health care and social security;

2.23 **proposes** that this area of services of general interest also be expressly excluded from the Directive's scope. This would also tally with the Commission's intention – as announced in the recent White Paper on services of general interest – to present a communication in 2005 on social and health care services given the latter's special importance and features;

2.24 **notes** that in this sector too the draft Directive is creating new provisions which compete with existing provisions;

2.25 **therefore proposes** that any legislative adjustments necessary to implement ECJ case law be laid down in the corresponding special provisions. Consequently, the provisions of Article 23 should be deleted from the Directive;

2.26 **also considers it desirable** that whenever reference is made to other provisions, the title of the particular provision should be expressly given in order to make the Directive easier to read;

2.27 **emphasises** the particularly important role to be played by regional and local authorities in implementing the proposed Directive. Considerable demands will be made on these authorities;

2.28 **thinks** that insufficient account has been taken hitherto of the effects of the Directive's implementation on regional and local authorities. The Directive is addressed to the Member States, but particularly concerns regional and local government, which will be charged with the practical implementation as part of the administrative process;

2.29 **points out** that in this connection problems relating to competences may arise initially in cases where implementation of the Directive at regional and local level requires new structures, a uniform administrative procedure on overarching cooperation. Rules such as the one stipulating that 'the authorisation shall enable the provider to have access to the service activity, or to exercise that activity, throughout the national territory' (Article 10(4)) or the establishment of single points of contact for handling all the procedures and formalities needed for access to service activities (Article 6) are, for example, in conflict with federal states' constitutional foundations. The Committee would point out that under the constitutional Treaty the Union has to respect the national identities of the Member States inherent in their fundamental political and constitutional structures;

2.30 **fears** that all national authorisation procedures come under the scope of the Directive and therefore are to be checked to see whether they should be retained, are to be abolished or adapted if need be and at all events are to be simplified. Such massive interference in Member States' procedural laws is disproportionate. Therefore it should be made clear that only the authorisation procedures directly associated with the initial start-up of an economic activity are to come under the scope of the Directive. All procedures laid down by law for overriding reasons relating to the public interest – whether or not they concern economic activities – are to be excluded from the scope of the Directive;

2.31 **fears** that implementation of the Directive at regional and local level will run counter to the moves to introduce deregulation and streamline administration;

2.32 **draws attention** to the fact that implementation of the Directive at regional and local level will require unforeseeable extra staffing and – not least – funding. This applies in particular to cross-border cooperation, electronic information exchange, the establishment and coordination of the single points of contact, the checks on whether existing provisions are compatible with the aims of the Directive, and the mutual evaluation to be carried out later by the Member States;

2.33 **notes** that the Commission has said nothing about the overall outlay – and particularly the financial outlay. So far a figure has only been put against the financial impact on the Commission itself (approx. EUR 3.4 million);

2.34 **requests** that corresponding calculations also be carried out in respect of the impact on each Member State;

2.35 **considers it vital** that support or compensation be provided for a transitional period. Without such assistance for regional and local government the planned simplification of transnational procedures will not be able to be introduced swiftly. It is absolutely vital not to put too great a practical strain on regional and local authorities;

2.36 **is also aware of** the everyday problems which could arise for regional and local authorities in this connection. One example is the language problems when communicating with authorities or service providers from other Member States or when recognising certificates, attestations or other documents issued for service providers in another Member States and thus in another language. The same is true of the use of electronic means for completing procedures;

2.37 **considers it necessary** that due allowance be made for such practical problems too, at least during a transitional period. For example, non-certified translations could at least be permitted;

2.38 **considers it foreseeable** that problems will also arise in connection with the planned measures for safeguarding service quality and in particular for supervising service providers. Because of the country of origin principle it is to be feared that transnational cooperation between authorities will be the only avenue available for taking action against troublesome service providers established in another Member State. This may well result in inappropriate delays;

2.39 **welcomes** the extensive provision made in the Directive for mutual assistance in order to counter the aforementioned dangers;

2.40 **calls on** the Commission to also make appropriate allowance for the interests of regional and local authorities when enacting the supplementary measures required for the checks in conjunction with the committee that is to be formed. Should new and as yet unforeseeable problems arise in connection with the performance of the checks when the time comes to implement the Directive, these must also be solved in a suitable and practical manner;

2.41 **draws attention** to the fact that professional bodies may also be confronted with similar problems as state administrative bodies. This applies particularly in the case of the checks on service providers who are established on their territory but are active in another Member State. If professional bodies perform duties of the state, they also experience the problems which could arise for Member States' authorities when implementing the proposed Directive;

2.42 **emphasises** the need to ensure when the Directive is implemented that professional bodies can perform their present duties without restrictions in future, too. The existence of compulsory membership schemes currently means that if service providers intend to set up in business in another Member State, they must contact the competent professional bodies in that country directly. It is therefore important, in connection with the establishment and setting-up of single points of contact, to take account of current responsibilities and allocations of tasks;

2.43 **is also aware of** the new challenges and tasks facing professional bodies, especially as possible single points of

contacts or in connection with the drafting of new codes of conduct at Community level;

2.44 for this purpose **asks** Member States, regional and local authorities and all other interested parties to prepare themselves in good time for the challenges set by the new Directive;

2.45 **would urge** that actions should not be guided by defensive reflexes but that the chances presenting themselves to each Member State's service providers and citizens and to the internal market as a whole should be seized.

Brussels, 30 September 2004

The President
of the Committee of the Regions
Peter STRAUB

Opinion of the Committee of the Regions on the Communication from the Commission: Follow-up to the high-level reflection process on patient mobility and health-care developments in the European Union and the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Modernising social protection for the development of high-quality, accessible and sustainable health care and long-term care: support for the national strategies using the 'open method of coordination'

(2005/C 43/07)

THE COMMITTEE OF THE REGIONS

Having regard to the *Communication from the Commission: Follow-up to the high-level reflection process on patient mobility and health-care developments in the European Union and the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Modernising social protection for the development of high-quality, accessible and sustainable health care and long-term care: support for the national strategies using the 'open method of coordination'* (COM(2004) 301 final and COM(2004) 304 final),

Having regard to the European Commission's decision of 20 April 2004, under Article 265(1) of the Treaty establishing the European Community, to consult the Committee on the subject,

Having regard to the CoR president's decision of 5 April 2004 to instruct the Commission for Economic and Social Policy to draw up an opinion on the subject,

Having regard to the *Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on the health strategy of the European Community and the Commission's Proposal for a Decision of the European Parliament and of the Council adopting a programme of Community action in the field of public health (2001-2006)* (COM (2000) 285 final),

Having regard to the *Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions: Strengthening the social dimension of the Lisbon strategy: Streamlining open coordination in the field of social protection* (COM(2003) 261 final),

Having regard to the *Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions: The future of health care and care for the elderly: guaranteeing accessibility, quality and financial viability* (COM(2001) 723 final),

Having regard to the Commission's *Proposal for a Directive of the European Parliament and of the Council on services in the internal market* (COM(2004) 2 final),

Having regard to the report submitted on 9 December 2003 entitled *High-level process of reflection on patient mobility and health-care developments in the European Union*,

Having regard to its draft opinion (CdR 153/2004 rev. 1) adopted on 6 July 2004 by the Commission for Economic and Social Policy (rapporteur: **Ms Bente Nielsen**, Member of Århus County Council (DK, PES);

ADOPTED THE FOLLOWING OPINION

unanimously at its 56th plenary session on 29 and 30 September 2004 (session of 30 September).

1. The Committee of the Regions' overall views and recommendations

THE COMMITTEE OF THE REGIONS

1.1 **considers** that, between them, the Commission's two communications on *Follow-up to the high-level reflection process on patient mobility and health-care developments in the European Union* and *Modernising social protection for the development of high-quality, accessible and sustainable health care and long-term care: support for the national strategies using the 'open method of coordination'* constitute a framework that presents an overall strategy for developing a shared vision for the European health-care and social protection systems. The two communications should therefore be considered together and the Committee of the Regions calls for the parallel coordination of the further work on the initiatives and processes proposed therein;

1.2 **stresses** that a joint European strategy for establishing a shared vision of European health and social security systems must not lead to any extension of the EU's healthcare remit. A shared European vision for health and social security systems must not result in any moves towards harmonisation or opaque regulatory initiatives. Health care – and its organisation and funding – is the concern and responsibility of the Member States and that must be respected. It is essential to comply with the subsidiarity principle;

1.3 **notes** that, in some Member States, it is the regional and local authorities that are responsible for health and the health-care sector. The Committee of the Regions, and the regions responsible in these areas, would like therefore to be involved in and contribute to establishing a common European health strategy and must be secured influence over the Community's global health strategy in relation to decisions and initiatives that touch on the remit and responsibilities of local and regional authorities in the health and health-care sectors;

1.4 **trusts** that the regional and local authorities will be involved in implementing the initiatives to establish a shared, global European health strategy, for instance in the development of health indicators and benchmarking. The Committee of the Regions therefore feels that regional and local authority

representatives should sit on the *High-level Group on Health Services and Medical Care* which will assist the Commission in a range of key areas, including developing the rights and duties of patients; sharing spare capacity between the various health-care systems and cross-border cooperation; identifying European centres of reference; and coordinating assessment of new health technologies. The Committee of the Regions therefore calls on the Commission to ensure that regional and local authorities are represented on this group;

1.5 **feels** that particular attention must be paid to the new Member States in order to meet shared and prospective health-care challenges. Clear priority should be given to supporting the new Member States in developing health measures and improving people's state of health, so as to reduce the discrepancies and imbalances that exist on the health front within the Union, in order, gradually, to come within range of the top EU benchmark.

Patient mobility and health-care developments in the European Union (COM(2004) 301 final)

2. The Committee of the Regions' views and recommendations

THE COMMITTEE OF THE REGIONS

2.1 **is pleased** that the Commission recognises that, to meet the requirement that a high level of human health protection be ensured in the definition of all Community policies and activities (Treaty Article 152(1)), it is necessary to increase the involvement of the political authorities responsible for health, health systems and health care. It is vital to ensure that the impact of Community initiatives should be included in the overall impact assessment of new policies and that an assessment of this kind should also consider the interplay between Community rules and the implications for Member States' health systems and national health policy objectives. Given that health, health systems and health care in many Member States are the responsibility of the local and regional authorities, the Committee of the Regions recommends that the regional and local level should be involved;

2.2 **considers** – following on from that – that it is vitally important to clarify the impact on citizens' rights under Community law to seek health care in other Member States and to be reimbursed for such care received in another Member State as set out in the Proposal for a Directive on services in the internal market, and in Regulation 1408/71 on the coordination of social security schemes;

2.3 **asks that**, when comparing health care and service provision as set out in the proposed services directive, the Commission should make sure that health care does not become solely a marketing commodity driven by the prospect of economic gain but, in contrast, is also underpinned by criteria geared to considering an individual's health, course of treatment and quality of life;

2.4 **recommends** that, in its work to disseminate and improve information on citizens' rights under Community law, the Commission should uphold the right of individual Member States to lay down rules for rights and obligations pertaining to the health-care system under their own social security schemes and the various conditions that apply to different services under Member States' health-insurance systems;

2.5 **also considers** that it is not only a question of securing citizens' rights under Community law and providing public information on the subject. More consideration should be given to the possibilities of ensuring provision of a responsive and accessible system that enables all patient groups to make use of the available rights and options. This will ensure that more vulnerable patient groups such as older people with no social network and the mentally ill are in a position to draw on their rights under Community law. For that to happen, it is essential, for instance, that information should be available wherever the public demands it and that such information should be followed up by competent advice and guidance in the individual Member States;

2.6 **asks** that, in the development of initiatives designed to secure the cross-border sharing of spare capacity and health care – as well as in European rules on the recognition of professional qualifications and in the ongoing simplification process – care should be taken in this regard to ensure that the initiatives do not have an adverse impact on the appropriate distribution of medical and health-care staff between the Member States to the detriment, for instance, of the new Member States;

2.7 **is pleased** that the Commission recognises the importance of a structured overall health technology assessment that can provide a solid basis for the evaluation and documentation of health-related devices, products and techniques;

2.8 **feels** in this regard that structured and coordinated European-level cooperation with a view to exchanging experience, sharing knowledge and simplifying arrangements relating to developments in health technology may bring clear value added to the Member States;

2.9 **considers** that access to high standards of sound data and information is crucial to any moves Member States might make to determine best practice and compare standards, and is thus also a *sine qua non* for implementing many of the proposed initiatives. The requisite frameworks for a systematic European data and information system should, as the Commission points out, be established in cooperation with other players in the field and should be coordinated with the ongoing OECD and WHO initiatives and work in this area. It is up to the individual Member States to implement measures and carry through new schemes in the light of the comparable data and information;

2.10 **thinks** that the Commission should do more to ensure that regional and local authorities responsible for health systems and health care are involved and take part in cooperation on health services and medical care and in the group set up on this issue.

Modernising social protection for the development of high-quality, accessible and sustainable health care and long-term care: support for the national strategies using the 'open method of coordination' (COM(2004) 304 final)

3. The Committee of the Regions' views and recommendations

THE COMMITTEE OF THE REGIONS

3.1 **welcomes** the Commission's global aim in this communication, namely to define a common framework to support Member States in the reform and development of health care and long-term care, borne by the social protection system, using the 'open method of coordination';

3.2 **can support** the three general objectives: accessibility of care for all, based on fairness and solidarity, provision of high-quality health care and assurance of the long-term financial sustainability of such care;

3.3 **finds** that establishing an overall common framework and securing the general objectives can help meet future challenges such as demographic ageing, persistent problems of accessibility as characterised by unequal access to health care and services, imbalances between the provision of quality services and public needs, and financial imbalances in certain systems;

3.4 **stresses** that the process for drawing up indicators and benchmarking criteria should be carried out showing full respect for Member States' responsibilities for providing and organising health care and take account of the various and divergent conditions in the individual Member States. It is extremely important for these indicators to be based as far as possible on already accessible data. There is a risk that an excessive number of indicators could create unacceptable levels of extra work at the local and regional levels;

3.5 **stresses**, in this connection, that health care and services in many Member States are managed by the regional and local authorities, which, moreover, often have major responsibilities in the fields of health education and preventive health care and of home care services, which serve to avert or reduce the need for recourse to residential care facilities. Thus, local and regional authorities, as essential actors and in accordance with the principles of the open method of coordination, should be involved in the drawing-up of national action plans and the establishment of indicators and benchmarking criteria;

3.6 **urges** that some of the indicators drawn up should relate to quality, as it is difficult for strictly quantitative indicators to cover so-called 'feminine' values, such as care for the elderly and the provision of a high quality of life. The quality of health care should therefore not be seen simply in cost-benefit terms but also in terms of the range of different services it offers;

3.7 **wishes**, furthermore, to point out that the establishment of these indicators and the implementation of benchmarking criteria in accordance with use of the open method of coordi-

nation should also take account of the different points of departure of the various Member States;

3.8 **calls upon** the Commission to support the development of a network for exchanging experiences and spreading best practice, which is an important part of the open method of coordination;

3.9 **welcomes** the focus on the significance of other policies for health and health care and considers that closer coordination with other political processes, such as the employment strategy, will be important to achieving the general objectives. The CoR is therefore pleased at the focus on the need for investments in basic and further training for health-care professionals based on the principle of lifelong learning and the formulation of policies on health and safety at the workplace and the creation of higher-quality jobs. In time this can help keep staff in the health-care sector and, hopefully, facilitate recruitment, which is essential to meeting the common challenges of demographic ageing and shortage of labour;

3.10 **considers** that an increased focus on marginalised groups, such as elderly people outside the safety net, ethnic minorities and low income groups, is of prime importance to achieving the general objective of fair access for all to health care. In this connection steps should be taken, as back-up for the Member States' own efforts to change things, to develop support machinery for these marginalised groups so that health inequalities can be reduced. The development of such support machinery requires the involvement and mobilisation of all the relevant players.

Brussels, 30 September 2004.

The President
of the Committee of the Regions
Peter STRAUB

Opinion of the Committee of the Regions on the Proposal for a Directive of the European Parliament and of the Council on enhancing port security

(2005/C 43/08)

THE COMMITTEE OF THE REGIONS

Having regard to the proposal for a directive of the European Parliament and of the Council on enhancing port security (COM(2004) 76 final – 2004/0031 (COD);

Having regard to the decision of the Council of 22 February 2004 to consult it on this subject, under the first paragraph of Article 265 and the Article 80 of the Treaty establishing the European Community;

Having regard to the decision of its president of 27 January 2004 to instruct its Commission for Territorial Cohesion Policy to draw up an opinion on this subject;

Having regard to its draft opinion (CdR 163/2004 rev. 1) adopted on 7 July 2004 by the Commission for Territorial Cohesion Policy (rapporteur: Mr Anders Knape, Municipal Commissioner, SE/EPP);

Whereas:

- (1) Unlawful acts and terrorism are among the greatest threats to the ideals of democracy and freedom and to the values of peace, which are the very essence of the European Union.
- (2) The security of people, infrastructure and equipment, including means of transport, in ports as well as in relevant adjacent areas should be protected against unlawful acts and their devastating effects. Such protection would benefit transport users, the economy and society as a whole.
- (3) On [Day/Month/2003] the European Parliament and the Council of the European Union adopted Regulation (EC) No. 725/2004 on maritime security. The enhanced maritime security measures imposed by this Regulation constitute only part of the measures necessary to achieve an adequate level of security throughout maritime linked transport chains. The Regulation is limited in scope to security measures onboard vessels and the immediate ship/port interface.
- (4) Without prejudice to the rules of the Member States in the field of national security and measures which might be taken on the basis of Title VI of the Treaty on European Union, the security objective described in recital 2 should be achieved by adopting appropriate measures in the field of port policy establishing joint standards for establishing a sufficient port security level throughout Community ports.
- (5) Member States should rely upon detailed security assessments to identify the exact boundaries of the security-relevant port area, and decide the different measures required to ensure appropriate port security, taking into account the opinion of the local and regional bodies involved. Such measures should be different according to the security level in place and reflect differences in the risk profile of different subareas in the port.
- (6) Member States or, if appropriate, local or regional bodies, should establish port security plans which thoroughly transpose the findings of the port security assessment. The efficient working of security measures also requires clear task divisions between all parties involved as well as regular exercise of measures. The retention of task divisions and exercise procedures in the format of the port security plan is considered to contribute strongly to the effectiveness of both preventive and remedial port security measures.
- (7) Member States should ensure that a national focal point acts as a contact point between the Commission and Member States.
- (8) This directive respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.

- (9) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission. A procedure should be defined for the adaptation of the directive to take account of developments in international instruments and, in the light of experience, to adapt or complement the detailed provisions of the Annexes to the directive, without widening its scope.
- (10) Since the objectives of the proposed action, namely the balanced introduction and application of appropriate measures in the field of maritime transport and port policy, cannot be sufficiently achieved by the Member States and can therefore, by reason of the European scale of this directive, be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity set out in Article 5 of the Treaty. In accordance with the principle of proportionality set out in that Article, this directive is limited to the basic joint standards required to achieve the objectives of port security and does not go beyond what is necessary for that purpose,

adopted the following opinion at its 56th plenary session on 29 and 30 September 2004 (meeting of 30 September).

1. Views of the Committee of the Regions

applies to that part of the port that represents the ship/port interface, i.e. the terminal;

THE COMMITTEE OF THE REGIONS

shares the view that unlawful acts and terrorism are among the greatest threats to the ideals of democracy and freedom and to the values of peace, which are the very essence of the European Union;

notes that terrorism and similar criminal acts are transnational in nature and, as such, must essentially be addressed using transnational measures. It is not generally possible to quantify and assess terror threats against ports or other infrastructures only from a local and regional perspective;

considers that protection against terrorist attacks and other criminal activities is chiefly a national competence and that the Member States should therefore bear both the financial and overall responsibility for the security measures decided at national or Community level. Any measures adopted to enhance port security against criminal acts must be weighed against the likely threat to individual ports. However, in accordance with the subsidiarity principle, port protection plans should be drawn up at local and regional level;

notes that the Commission communication on Enhancing maritime transport security (COM(2003) 229 final) contains a proposal for the protection of ships and the ship/port interface, and that the proposal is currently going through the legislative procedure;

believes that port security will also be enhanced by the security measures for ships and ports provided for in the amended SOLAS Convention, the ISPS Code and Commission Regulation (EC) No. 725/2004. However, the Regulation only

recognises that for some ports further security measures may be required, both for ports and for coordination between ports and their hinterland, once Regulation (EC) No. 725/2004 has been implemented and evaluated. The need for protection extends to people working in or passing through ports, infrastructure and equipment, including means of transport. The Committee of the Regions **notes** that the IMO and ILO are currently drawing up a Code of Practice for port security;

considers that the enhanced port and shipping security measures provided for in regulations and directives must be effective without requiring any further financial or staffing resources than warranted from a security and protection standpoint, and paying particular attention to the size, geographical location and activity of ports;

considers that any regulation of activity, measures and monitoring must be commensurate with the perceived threat and the need for an efficient, competitive transport network, resulting in increased shipping activity and relieving other modes of transport;

considers that authorisation of the assessment and plans under the directive and implementation thereof should be guaranteed by means of inspections monitored by the individual Member State;

considers that the definition of a port as a ship/port interface should be extended to cover the terminal, and areas such as anchorages, waiting berths and approaches from seaward, and any goods storage areas that should be included in the port area;

considers that inside ports should be considered as an exemption

endorses the view that, in view of the diverse activities of Community ports, a directive provides the best way to achieve the necessary flexibility and common port security level;

is aware that a number of port security systems are already in operation in the Member States and that it is possible to maintain existing security measures and structures as long as they comply with the rules of the directive;

1.1 *Content of the port security Directive*

1.1.1 **considers** that maritime and ship/port interface security in some ports could need improving through enhanced port security, and that this would ensure that the security measures are improved upon thanks to security measures being applied throughout the port area. In some ports the counter-terrorism measures that are in place could need supplementing with security measures designed to protect businesses located in the vicinity of the ports and which could be a potential terrorist target, for instance fuel depots and chemical or fertilizer production sites;

1.1.2 **considers** that the individual Member States, in consultation with local and regional bodies and stakeholder port representatives, must determine the need for and scope of any measures;

1.1.3 **considers** that the choice between various security levels based on normal, heightened or imminent threats is not a matter for the port authorities but is horizontal in nature;

1.2 *General principles*

1.2.1 **emphasises** the importance of the subsidiarity principle, particularly in view of the recently adopted constitutional Treaty and the new subsidiarity protocol;

1.2.2 **considers** it positive that the proposal builds on the same structure and security body as Regulation (EC) No 725/2004, whereby a security system can, where necessary, be set up to include the whole maritime transport chain, from ships, the ship/port interface and ports generally, to the port area/hinterland interface;

1.2.3 **welcomes** the fact that the Member States are to determine the boundaries within which the directive shall apply to their ports. This should be decided in consultation with the local and regional bodies concerned. A basic risk/need assessment must be carried out in order to establish which ports require enhanced security measures;

1.2.4 **also welcomes** the fact that the Member States are to ensure that proper port security assessments and port security plans are developed, establish and communicate security levels and any changes to these, and appoint a port security authority. In accordance with the subsidiarity principle, it must be left to the individual Member States, in consultation with stakeholder authorities and local and regional bodies, to determine the need for assessments, plans and authorities, taking into account an individual Member State's assessment of the threat and the local and regional situation;

1.2.5 **welcomes** the proposal to appoint a security officer for each individual port to ensure proper coordination for establishing, updating and follow-up of the port security assessments and plans including security plans for the adjacent businesses that the individual Member States, in consultation with the security officer, deem necessary, and for the appointment of focal points in the Member States to provide the necessary communication both to other Member States and to the Commission;

1.2.6 **does not see the need** for a general requirement of a security committee for every port, as these should be set up on the basis of actual need;

1.2.7 **considers** that the proposed minimum requirements for security assessments and plans and for inspection procedures to monitor the implementation of port security measures should be in the form of general advice and recommendations rather than regulations;

1.3 *Legal considerations*

1.3.1 **considers** that the penalties for breaching the national provisions adopted pursuant to the directive must be established by the individual Member States. Since most Member States already have adequate legislation, there is, generally speaking, no need for any further criminal law provisions;

1.4 *Impact assessment*

1.4.1 **calls on** the Commission to carefully assess the cost implications of the proposal on enhancing port security. The increased costs incurred as a consequence of the proposed directive in terms of establishing plans, various types of measures, monitoring and control procedures etc., should be borne largely by the Member States, in order to avoid maritime passenger and goods transport costs becoming so high as to encourage a switch to other less environmentally-friendly or less safe modes of transport.

2. The Committee of the Regions' Recommendations

Amendment

Recommendation 1

Recital (1) a (new)

Text of the Commission proposal	CoR amendment
	<p>(1a) <u>Terrorism and similar criminal acts are transnational in nature and, as such, must essentially be addressed using transnational measures. It is not usually possible to quantify and assess terror threats against ports or other infrastructures from a local and regional perspective.</u></p> <p><u>Consequently, protection against terrorist attacks and other criminal activities is chiefly a national competence and the Member States should therefore bear both the financial and overall responsibility for the security measures decided at national or Community level.</u></p>

Reason

The preamble should state explicitly that terrorism and similar criminal acts are transnational in nature and, as such, must essentially be addressed using transnational measures for which the Member States have overall responsibility. It is important that the level responsible for taking a regulatory decision should also be responsible for financing it, so as to reduce the risk of over-regulation and any ensuing negative socio-economic repercussions. Consequently, it would seem natural that the state should also bear financial responsibility for measures to prevent and deter such action.

Recommendation 2

Recital (4)

Text of the Commission proposal	CoR amendment
In order to achieve the fullest protection possible for maritime and port industries, port security measures should be introduced. They should extend beyond the ship/port interface and cover the entire port thus both protecting the port areas and ensuring that security measures taken in application of Regulation (EC) No. 725/2004 benefit from enhanced security in adjacent areas. These measures should apply to all those ports in which one or more port facilities are situated which are covered by Regulation (EC) No. 725/2004.	In order to achieve the fullest protection possible for maritime and port industries, port security measures should be introduced. They should extend beyond the ship/port interface and cover the entire port thus both protecting the port areas and ensuring that security measures taken in application of Regulation (EC) No. 725/2004 benefit from enhanced security in adjacent areas. These measures should apply to all those ports in which one or more port facilities are situated which are covered by Regulation (EC) No. 725/2004. In order to achieve the fullest protection possible for maritime and port industries, port security measures could become necessary. Such measures should cover the ship/port interface and the port areas that require enhanced security. The Member States should determine which port facilities covered by Regulation (EC) No. 725/2004 require further measures.

Reason

Measures in addition to Regulation (EC) No. 725/2004 might need to be introduced in a second stage, when the impact of the implementation of the Regulation can be assessed. In accordance with the subsidiarity principle, individual Member States should determine which ports will be affected. Additional security measures will not necessarily be needed by all ports covered by the Regulation.

Recommendation 3

Recital (5) a (new)

Text of the Commission proposal	CoR amendment
	<u>The Committee of the Regions considers that the The enhanced port and shipping security measures provided for in regulations and directives must be effective without requiring any further financial or staffing resources than warranted from a security and protection standpoint, and paying particular attention to the size, geographical location and activity of ports.</u>

Reason

In order to avoid inhibiting maritime goods and passenger flows, it is important that the security measures decided should be relevant and cost-effective. Otherwise, there is a risk that the measures could have negative socio-economic repercussions. It is important that the directive should state clearly that the security measures must be cost-effective from a socio-economic perspective.

Recommendation 4

Recital (8)

Text of the Commission proposal	CoR amendment
Member States should ensure that responsibilities in port security are clearly recognised by all parties involved. The Member States should monitor compliance with security rules and establish a clear responsible authority for all their ports, approve all security assessments and plans for its ports, set and communicate security levels, ensure that measures are well communicated, implemented and coordinated, and provide for enhancing the effectiveness of security measures and alertness by means of a platform for advice within the port community	Member States should ensure that responsibilities in port security are clearly recognised by all parties involved, <u>including appropriate local and regional authorities.</u> The Member States should monitor compliance with security rules and establish a clear responsible authority for all their ports, approve all security assessments and plans for its ports, set and communicate security levels, ensure that measures are well communicated, implemented and coordinated, and provide for enhancing the effectiveness of security measures and alertness by means of a platform for advice within the port community

Reason

Local and regional authorities may have responsibility for some aspects of port security such as port health, examination of ships' cargo by environment health officers and other civil contingencies responsibilities.

Recommendation 5

Recital (9)

Text of the Commission proposal	CoR amendment
Member States should approve assessments and plans and monitor the implementation in their ports. The effectiveness of the implementation monitoring should be the subject of inspections supervised by the Commission.	Member States should approve assessments and plans and monitor the implementation in their ports. The effectiveness of the implementation monitoring should be the subject of inspections supervised by the Commission relevant Member State and reported to the Commission.

Reason

The Commission's monitoring inspection proposals are more comprehensive and regulated than is warranted by the current situation. Measures, monitoring and follow-up arrangements should be commensurate with security and protection needs, bearing in mind, in particular, the size, geographical location and activity of the ports in question. It should be possible to carry out monitoring and inspection at Member State level.

Recommendation 6

Article 2(2)

Text of the Commission proposal	CoR amendment
The measures laid down in this directive shall apply to any port located in the territory of a Member State in which one or more port facilities are situated which are covered by Regulation (EC) No. 725/2004.	The measures laid down in this directive shall apply to any port such ports located in the territory of a Member State in which one or more port facilities are situated which are covered by Regulation (EC) No. 725/2004 and which the Member State considers requires enhanced port security.

Reason

The amendment is a consequence of the amendment to Recital 4. The Commission proposal covers **any** port located in the territory of a Member State in which one or more port facilities are situated which are covered by Regulation (EC) No. 725/2004. The Committee of the Regions is not convinced that it is necessary to adopt additional measures for all ports.

Recommendation 7

Article 3(1)

Text of the Commission proposal	CoR amendment
'Port' or 'seaport' means an area of land and water made up of such works and equipment as to permit principally, the reception of ships, their loading and unloading, the storage of goods, the receipt and delivery of these goods, and the embarkation and disembarkation of passengers.	'Port' or 'seaport' means an area of land and water <u>defined and demarcated by the Member State and made up of such works and equipment as to permit, principally, commercial maritime transport, and directly linked to a port facility.</u> the reception of ships, their loading and unloading, the storage of goods, the receipt and delivery of these goods, and the embarkation and disembarkation of passengers.

Reason

What qualifies as a 'port area' must be decided on a case-by-case basis and the definition of a 'port' must not be over-restrictive. The above amendment provides the Member States with the flexibility they need to define and demarcate these areas, without allowing port areas to extend beyond reasonable proportions.

Recommendation 8

Article 5(1)

Text of the Commission proposal	CoR amendment
Member States shall designate a port security authority for each port covered by this directive. A port security authority may be appointed for more than one port.	Member States shall ensure that designate a port security authority is designated for each port covered by this directive <u>on the basis of uniform criteria</u> . A port security authority may be appointed for more than one port.

Reason

In accordance with the subsidiarity principle, it should be possible for the regional and local level to appoint the port security authority. However, the Member States should continue to have financial and overall responsibility for port security, as argued in Recommendation 1.

Recommendation 9

Article 5(3)

Text of the Commission proposal	CoR amendment
Member States may appoint a 'competent authority for maritime security' under Regulation (EC) No. 725/2004 as port security authority.	Member States may appoint a A 'competent authority for maritime security' may be appointed as port security authority under Regulation (EC) No. 725/2004 as port security authority

Reason

In accordance with the subsidiarity principle, it should be possible for the regional and local level to appoint the port security authority. The amendment is a consequence of the amendment to Article 5(1).

Recommendation 10

Article 9(1)

Text of the Commission proposal	CoR amendment
A port security officer shall be designated for each port. Each port shall have a different port security officer. Small adjacent ports may have a shared security officer.	A port security officer shall be designated for each port. Each port shall have a different port security officer. Small adjacent Adjacent ports may have a shared security officer. <u>Exceptionally, the same individual may be designated port security officer for more than one port even where the ports are not adjacent when, due to their low volume of activity, it would be disproportionate for them to have their own security officer and provided that an adequate level of security is guaranteed.</u>

Reason

Generally speaking, adjacent ports should be able to have a shared security officer, regardless of size.

Recommendation 11

Article 10(1)

Text of the Commission proposal	CoR amendment
Member States shall ensure that port security committees are established to provide practical advice in the ports covered by this directive, unless the specificity of a port renders such committees superfluous.	Member States shall ensure that may, where necessary, establish port security committees <u>are established</u> to provide practical advice in the ports covered by this directive, unless the specificity of a port renders such committees superfluous.

Reason

It is unlikely that all ports covered by the directive will need a security committee. It is probably only the larger ports that need one. Consequently, the general rule should be that a security committee is not required and that one may be established only where necessary.

Recommendation 12

Article 14(2)

Text of the Commission proposal	CoR amendment
Six months after the date referred to in Article 19, the Commission, in co-operation with the focal points referred to in Article 13, shall start a series of inspections, including inspections of a suitable sample of ports, to monitor the application by Member States of this directive. These inspections shall take account of the data supplied by the focal points, including monitoring reports. The procedures for conducting such inspections shall be adopted in accordance with the procedure referred to in Article 16 (2).	Six months after the date referred to in Article 19, the Member State Commission , in co-operation with the focal points referred to in Article 13, shall start a series of inspections, including inspections of a suitable sample of ports, to monitor the application by Member States of this directive. These inspections shall take account of the data supplied by the focal points, including monitoring reports. The procedures for conducting such inspections shall be adopted in accordance with the procedure referred to in Article 16(2).

Reason

The amendment is a consequence of the amendment to Recital 9.

Recommendation 13

Article 14(3)

Text of the Commission proposal	CoR amendment
The officials mandated by the Commission to conduct such inspections in accordance with paragraph 2 shall exercise their powers upon production of an authorisation in writing issued by the Commission and specifying the subject-matter, the purpose of the inspection and the date on which it is to begin. The Commission shall in good time before inspections inform the Member States concerned of the inspections.	The officials mandated by the Commission to conduct such inspections in accordance with paragraph 2 shall exercise their powers upon production of an authorisation in writing issued by the Commission and specifying the subject-matter, the purpose of the inspection and the date on which it is to begin. The Commission shall in good time before inspections inform the Member States concerned of the inspections.
The Member State concerned shall submit to such inspections and shall ensure that bodies or persons concerned also submit to those inspections.	The <u>port security authority</u> Member State concerned shall submit to such inspections and shall ensure that bodies or persons concerned also submit to those inspections.

Reason

The amendment is a consequence of amendments to Article 14(2) and Recital 9.

Recommendation 14

Article 14(4)

Text of the Commission proposal	CoR amendment
The Commission shall communicate the inspection reports to the Member State concerned, which within three months of receipt of the report shall indicate sufficient details of the measures taken to remedy any shortcomings. The report and the answers shall be communicated to the Committee referred to in Article 16.	The Commission Member State shall communicate the inspection reports to the Commission Member State concerned, which can require the Member State to indicate, within three months of receipt submission of the reports, shall indicate sufficient details of the measures taken to remedy any shortcomings. The report and the answers shall be communicated to the Committee referred to in Article 16.

Reason

The amendment is a consequence of amendments to Articles 14(2), 14(3) and Recital 9.

Recommendation 15

Article 17(2)

Text of the Commission proposal	CoR amendment
Any personnel carrying out security inspections, or handling confidential information related to this directive, must have an appropriate level of security vetting by the Member State of which the personnel concerned has the nationality.	Any personnel carrying out security inspections, or handling confidential information related to this directive, must have an appropriate level of security vetting by the Member State of which the personnel concerned has the nationality .

Reason

The amendment is a consequence of amendments to Articles 14(2), 14(3), 14(4) and Recital 9.

Recommendation 16

Text of the Commission proposal	CoR amendment
	The Committee proposes that security representatives from individual ports chosen by Member States should be invited to exchange experience at least once a year .

Reason

The proposals and arguments put forward by the CoR in its reasons for amendments to the directive make it clear that the coordination of security measures extending beyond the port/ship interface is a matter which should as far as possible be dealt with by individual Member States.

Brussels, 30 September 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 – Towards a thematic strategy on the urban environment

(2005/C 43/09)

THE COMMITTEE OF THE REGIONS

Having regard to the Communication from the Commission: Towards a thematic strategy on the urban environment (COM(2004) 60 final);

Having regard to the decision of the European Commission of 11 February 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 10 February 2004 to instruct its Commission for Sustainable Development to draw up an opinion on this subject;

Having regard to its opinion on the Commission Communication: Sustainable Urban Development in the European Union: A Framework for Action: (COM(1998) 605 final - CdR 115/99 fin ⁽¹⁾);

Having regard to its opinion on the Commission Communication: Towards an urban agenda in the European Union (COM(1997) 197 –final CdR 319/97 fin ⁽²⁾);

Having regard to the Commission Communication on European Governance (COM(2001) 428 final);

Having regard to the Protocol on the Application of the Principles of Subsidiarity and Proportionality, appended to the Treaty establishing the European Community;

Having regard to the definition of 'sustainable development' in the Amsterdam Treaty;

Having regard to the Commission Communication on A Sustainable Europe for a Better World: A European Union Strategy for Sustainable Development (Commission's proposal to the Gothenburg European Council) (COM(2001) 264 final);

Having regard to the Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions: Towards a global partnership for sustainable development (COM(2002) 82 final);

Having regard to its opinion on the Commission Communication on the sixth environment action programme of the European Community 'Environment 2010: our future, our choice - the Sixth Environment Action Programme', and the proposal for a decision of the European Parliament and of the Council on the Community Environment Action Programme 2001–2010 (COM(2001) 31 final - CdR 36/2001 fin ⁽³⁾);

Having regard to the Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee on 'A European environment and health strategy' (COM(2003) 338 final);

Having regard to the Communication from the Commission to the Council and the European Parliament: Biodiversity Strategy (COM(1998) 42 final) and the Communication from the Commission to the Council and the European Parliament: Biodiversity Action Plan (COM(2001) 162 final);

Having regard to its draft opinion (CdR 93/2004 rev. 1) adopted on 8 July 2004 by its Commission for sustainable development (rapporteur: Ms Tarras-Wahlberg, member of Stockholm City Council, SE/PES);

⁽¹⁾ OJ C 293, 13.10.1999, p.58

⁽²⁾ OJ C 251, 10.8.1998, p.11

⁽³⁾ OJ C 357, 14.12.2001, p. 44.

WHEREAS

- 1) Some 80 % of European Union citizens live in urban areas and it is clear that many of these have serious environmental problems. Urban environmental problems impact primarily on town dwellers, but they also have negative regional effects in terms of the environment and quality of life.
- 2) In order to improve the environmental situation in European Union cities, more resources are needed as well as a flexible strategy that takes account of the different characteristics of European towns and cities. This should be a long-term strategy, and compatible with EU sustainable development policy.
- 3) For the strategy to be effective, it is essential that it should establish the link between an improved urban environment and opportunities to benefit from European Union support in various policy areas.
- 4) The strategy should also lead to social integration and fair environmental conditions within the EU, whilst taking account of poor countries' needs for resources and creating fairness between generations.
- 5) In light of changing urban conditions and the subsidiarity principle, the local authorities should bear the main responsibility for framing the measures that need to be adopted in a specific urban area.

Unanimously adopted the following opinion at its 56th plenary session held on 29 and 30 September 2004 in Brussels (meeting of 30 September):

1. The Committee of the Regions' views

THE COMMITTEE OF THE REGIONS

General

1.1 **welcomes** the Commission Communication as a first step towards a thematic strategy on the urban environment, called for in the EU's 6th environmental action programme. The future thematic strategy will play an important role in improving the quality of the urban environment. Therefore, it is crucial to acknowledge the role and responsibility of the local and regional authorities in achieving the objectives of the EU's sustainable development strategy;

1.2 **underlines** the fact that the urban environment is a complex area. Environmental aspects need to be meshed in with economic aspects, e.g. competitiveness and employment regions, and social aspects, e.g. segregation and integration, in order to achieve sustainable development in urban areas and agglomerations. Cultural aspects should also be included;

1.3 **appreciates** the commission's decision to address the question of working 'towards a more integrated approach'. Both the horizontal/cross-sectoral approach (between policy areas and between different players) and the vertical approach (between different levels of administration) need to be developed in order to get a global view of sustainable urban development;

1.4 **appreciates** the fact that the Commission is helping to frame common objectives and indicators for urban environmental follow-up. However, it is important that these should serve as a guide rather than be prescriptive;

1.5 **considers** that it is important that towns and their immediate, as well as their more distant hinterland should be seen as mutually dependent, i.e. following the thinking of the ESDP (European Spatial Development Perspective);

1.6 **appreciates** the fact that the Commission intends to promote ecologically orientated education and exchanges of experience and research in the field of the urban environment;

1.7 **would remind** the Commission of the European Urban Charter, adopted by the Congress of Local and Regional Authorities (CLRAE), a consultative body of the European Council. The Urban Charter describes the complexity of urban areas.

Sustainable urban management

1.8 **appreciates** the fact that the Commission aims high in highlighting the need for a structured approach to urban management, with a view to increasing cross-sectoral work, and facilitating follow-up and comparative studies in order to improve the urban environment;

1.9 **would also stress** the need for new urban management systems to be strategic and operational across administrative borders in an urban area and in the areas adjacent to it.

Sustainable urban transport systems

1.10 **questions** the Commission proposal to develop a separate plan for urban transport systems. One of the most important aspects of a sustainable urban environment is precisely the fact that it links transport systems with land development, and this is best achieved at regional and local level;

1.11 would **encourage** the Commission to disseminate best practice in transport in terms of cooperation and coordination both between the various authorities and between the different modes of transport in order to make transport more efficient and reduce environmental impact.

Sustainable construction

1.12 **welcomes** the fact that the Commission is to develop a common methodology for assessing the overall sustainability of buildings and the built environment, as a tool for use in new building and significant renovation;

1.13 **considers** that the Commission must not supplement Directive 2002/91/EC with requirements that are not linked to energy-related environmental performance. The directive must be fully implemented in national legislation and assessed before any further proposals are drafted;

1.14 **appreciates** the Commission proposal to draft national sustainable construction programmes and **agrees** that public purchasers must include a sustainability requirement in their tendering procedures for construction projects.

Sustainable urban design

1.15 **appreciates** the fact that the Commission encourages sustainable urban settling patterns and the use of brownfield land over the use of greenfield land, in order to achieve sustainable urban development based on the high-density city;

1.16 **does not recommend** that the Commission should frame guidelines for high density, mixed-use spatial planning. **Neither does it endorse** the proposal for the Commission to define brownfield and greenfield land or develop other guidelines on specific urban design issues. The Committee of the Regions **considers** that spatial planning is a national, regional and local competence, and every country has its own cultural and topographical features, construction traditions, etc.

2. Committee of the Regions' recommendations

2.1 **accepts** that the Commission is right to propose ambitious goals for more sustainable urban environment. Believes, however that the role of the Commission is to propose policy frameworks and agree targets but should not include proposing the legislative framework of how this should be achieved;

2.2 **considers** that it is important that EU measures regarding the urban environment recognise and build on already existing urban environmental management plans and environmental management systems that have produced good results, and support local authorities with respect to the principles of subsidiarity and proportionality;

2.3 **considers** that environmental management plans and environmental management systems must be assessed further in terms of their environmental benefits, and then developed

for the public sector, with the focus on sustainable urban development;

2.4 **considers** that it is important that EU measures regarding transport systems and mobility recognise and build on already existing transport and mobility plans that have produced good results, and support local authorities with respect to the principles of subsidiarity and proportionality;

2.5 **considers** that a sustainable urban transport plan must be based on an integrated approach which is consistent with social, environmental and economic policies at local and regional level. The regional and local level is the most appropriate level for developing sustainable cities and urban areas and for coordinating issues and players in a holistic approach;

2.6 **encourages** development of methods to facilitate the switch to more sustainable modes of transport; examples of areas that need developing are economic management tools, mobility management and intelligent transport systems (ITS);

2.7 **recommends**, as an alternative to legislation, developing tools and methods building on agreements that can win the Member States over to sustainable urban development. The Committee of the Regions **calls on** the Commission to frame urban development agreements, working along the lines of, for example, the open coordination method and the Ålborg Charter, or tripartite agreements. It is essential, here, that the regional and local level be provided with the influence and resources it needs to enable it to take part;

2.8 **calls on** the Commission to develop resources for exchanges of experience and expertise-sharing through networks. Network efforts under Interreg IIIC could provide a model to build on in the Life and Urban programmes, for example;

2.9 **takes a positive view** of the Commission's proposal that the Member States should be encouraged to develop national or regional strategies for the sustainable urban environment. These should be developed into strategies for the sustainable development of cities and agglomerations;

2.10 **takes a positive view** of the Commission's proposal that the Member States should be encouraged to establish national or regional Focal Points to provide cities with back-up in the form of information, expertise and advice. These Focal Points should champion the sustainable development of cities and agglomerations;

2.11 **considers** that the comprehensive national efforts many Member States are making to promote sustainable urban development in areas such as the environmental labelling of construction materials or the renovation of older buildings containing materials incompatible with the environment must be taken on board before framing new systems. Furthermore, the Committee believes that harmonisation measures required to adapt to any new systems must not involve duplication of effort, more red tape or expense;

2.12 would **highlight** the fact that many of the Commission's proposals are concerned with creating standards, systems, indicators and methods to make comparisons between countries possible. The Committee **believes** that it is very important to develop systems that do not put pressure on resources, or increase costs and red tape for regional and local authorities;

2.13 **considers** that it is very important that all the proposals should be flexible and simple, in view of the various countries' situations and needs;

2.14 **considers** that it is important that the Commission proposals should promote a step-by-step approach, and do not

create any tension between cities that manage to implement the proposals at once and those that are unable to comply with them immediately;

2.15 **considers** that the Commission must clarify what is meant by 'towns and cities' and 'urban areas'. Definitions could, if necessary, be worked out in each Member State;

2.16 **stresses** the need for the thematic strategy consistently to take into account the links between the urban environment and its hinterland, making provision, where necessary, for agreements and cooperation with the relevant authorities of the surrounding areas concerned.

Brussels, 30 September 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 European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on reinforcing the civil protection capacity of the European Union

(2005/C 43/10)

THE COMMITTEE OF THE REGIONS,

Having regard to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on *Reinforcing the civil protection capacity of the European Union* (COM(2004) 200 final);

Having regard to the decision of the European Commission of 25 March 2004 to consult the Committee of the Regions 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 19 June 2003 to instruct its Commission for Sustainable Development to draw up an opinion on this subject;

Having regard to its Opinion on *the management and consequences of natural disasters: the role of European structural policy* of 3 July 2003 (CdR 104/2003 fin) ⁽¹⁾;

Having regard to Council Decision 1999/847/EC of 9 December 1999 *establishing an action programme in the field of civil protection (2000-2004)* ⁽²⁾;

Having regard to Council Decision 2001/792/EC, Euratom of 23 October 2001 *establishing a community mechanism to facilitate reinforced cooperation in civil protection assistance* ⁽³⁾;

Having regard to the initiatives of the Commission in late 2003 to adopt the implementing instruments for Council Decision 2001/792;

⁽¹⁾ OJ C 256 of 24.10.2003, p. 74

⁽²⁾ OJ L 327 of 21.12.1999, p. 53

⁽³⁾ OJ L 297 of 15.11.2001, p. 7

Having regard to the European Parliament resolution of 4 September 2003 (PE T5-0373/2003) on the effects of the summer heat wave (2003) and the European Parliament report (PE-A5-0278/2003) on improving safety at sea in response to the Prestige accident;

Having regard to Article III-184 and Article I-42 of the draft Treaty establishing a Constitution for Europe, wherein the fundamental principles underlying cooperation and solidarity in the field of civil protection are laid down;

Having regard to its draft opinion (CdR 241/2003 rev. 1) adopted on 8 July 2004 by its Commission for sustainable development (rapporteur: **Mr Isidoro Gottardo**, Member of the Friuli Venezia Giulia Regional Council (IT/EPP));

Whereas:

- 1) The principle of solidarity and mutual assistance between Member States in case of natural or man-made disasters on the territory of the European Union is a fundamental moral obligation and a founding and defining principle of an international community;
- 2) The highest principles of solidarity must be extended by the European Union to third countries affected by the above-mentioned disasters, within a framework of international cooperation;
- 3) In recent years, there has been a discernible upsurge in exposure to disaster hazards both within the European Union and beyond its borders. As a consequence, it is vital for the European Union to take steps to strengthen the Commission's coordination and rapid response capacities;
- 4) A modern and effective civil protection system rests on two fundamental pillars, namely a high level of coordination and an intricate, Community-wide network of operational resources and highly specialised rapid response units;
- 5) A broad Europe-wide network of human and material civil protection resources at the service of Member States and regions is essential to ensure prompt, frontline rescue operations on behalf of disaster victims, and to mobilise and coordinate on-site operational resources with assistance from outside the affected area;
- 6) Once the European Union's civil protection capacity has been reinforced, the Community should address prevention issues with commitment and determination in order to restrict, in so far as this is possible, the incidence of disasters and mitigate the negative effects of those disasters that defy prevention;

Unanimously adopted the following opinion at its 56th plenary session held on 29 and 30 September 2004 in Brussels (meeting of 30 September):

1. The Committee of the Regions' views

THE COMMITTEE OF THE REGIONS

1.1 **approves** the action plan outlined in the Commission Communication for strengthening the European Union's operational capacity in the field of civil protection, in the spirit of solidarity and cooperation that the European Parliament upholds as a founding principle of an international community;

1.2 **considers** that a holistic approach should be followed, covering all aspects of civil disaster protection, such as preventive measures, rescue services and follow-up measures;

1.3 **considers** that local and regional governments constitute an important structural and organisational model framework for modern and effective civil protection in Europe, due to their legislative and administrative powers and their direct contact with and responsibility for their citizens' security and regional heritage;

1.4 **considers** that local and regional government can provide an important model framework for the development of an efficient and modern European civil protection system, with the ability to respond to crises within the European Union and beyond its borders;

1.5 **believes** that an active civil protection culture has taken firm root in the Member States, regions and communes and has evolved into an intricate network that spans the European Union. It finds its source at a local level and is consolidated at the highest institutional level. The authorities, and the regions in particular, must have a high rapid alert and coordination capacity, i.e. immediate access to widespread emergency resources deployed throughout the territory, prompt mobilisation of their own human and material resources to the disaster area, and the ability to coordinate the arrival of external human and material resources;

1.6 **emphasises** that rapid, quality information and communication systems for monitoring and managing emergency situations are vital to the new Community civil protection mechanism since the efficient coordination of rescue efforts on behalf of disaster victims cannot be achieved without them;

1.7 **considers** it indispensable to link the European monitoring centre with national and regional civil protection operations through one fixed emergency communication network system;

1.8 **hopes** that the implementation of the Communication's guidelines will be accompanied by European certification regarding standards for the communication capacity, command and management of national and regional civil protection operations in order to ensure the efficiency and reliability of such fundamental emergency forces;

1.9 **considers** that in order to keep European civil protection databases up to date, and to ensure an efficient and rapid emergency response, regional and national civil protection centres should be the primary source of information on human and material resources and experience in emergency response situations. Existing national authority databases should be synchronised with the European database;

1.10 **considers** that, given the long experience of Member States and regions in managing the more common or recurrent disasters, the essential pan-European strategic objective should be to bring together and coordinate the human and material resources that already exist in the European Union;

1.11 **considers** that a Community-level team of experts should be appointed to develop realistic emergency scenarios for rare or poorly understood emergencies, and to identify the human and material resources best suited for rescue and rapid response operations;

1.12 **considers** that joint civil protection operations are an important indicator of the different Member States' human and material operational capacity in the field. Joint operations establish whether participating States are able to integrate their respective operations effectively and to coordinate closely with the civil authorities on the spot, whose local responsibility in the communication, command and crisis management network is of primary importance;

1.13 **emphasises** that the process of creating and finalising a European rapid emergency response force should provide as much scope as possible for cross-border cooperation and, in particular, for joint civil protection exercises between neighbouring or border regions.

2. The Committee of the Regions' recommendations

Database

THE COMMITTEE OF THE REGIONS

2.1 **recommends** that the human and material resources database for various emergency situations be compiled - by coordinating available information from national authority databases - and updated by the operators that possess the relevant information for their own institutional purposes, and that manage operational 24-hour civil protection emergency centres in the territories of their jurisdiction;

2.2 **proposes** that the database information sources include national civil protection operational centres by pooling information on major material and human resources, and highly qualified specialists. The database should also include regional civil protection operational centres by pooling information on the overall resources and specialised rapid response units attached to local authorities;

2.3 **recommends** that, in addition to information on the financial and operational resources allocated to various emergencies, all actors at all levels of the above-mentioned information network should contribute to the database a list of the specific emergencies dealt with by specific operational units, on or off their own territory;

2.4 **recommends** that the database include a list of civil protection operations of an international character that have been coordinated by the operational centre on its own territory;

2.5 **recommends** that the database be updated every six months, within a pre-established time frame.

Joint exercises

THE COMMITTEE OF THE REGIONS

2.6 **recommends** that joint civil protection exercises should strike the right balance between the greater resources of the specialized national forces and the emergency response resources of the region, which are specifically trained to provide direct assistance to the population in close coordination with the municipality and other national and regional forces;

2.7 **urges** the Commission to commit itself to the planning and development of cross-border operations that involve the active participation of border regions. This would enable regions to pool their experience in civil protection and provide a solid operational base on which to build a European emergency response force;

2.8 **recommends** that best emergency response practices be defined for recurrent disasters, and in particular, for disasters that spread rapidly such as forest fires. This could be achieved by comparing the early warning and emergency response tactics used in different regions;

2.9 **recommends** that steps be taken to improve the interoperability of civilian and military resources in order to ensure the immediate deployment of special resources that only the armed forces can access, or to call in additional special resources, such as helicopters, to complement civil protection resources in complex or widespread disasters.

Communication and improved coordination

THE COMMITTEE OF THE REGIONS

2.10 **recommends** that in order to solve problems connected with the timely communication of information so as to ensure the rapid assessment of an emergency situation and the prompt delivery of effective assistance, regional 24-hour emergency centres must be able to communicate directly, in real time, with national and EU emergency centres, thus avoiding circuitous information channels that slow down or distort the flow of information;

2.11 **recommends** the establishment of a dedicated European civil protection communication network linking all regional and national emergency centres to the European monitoring centre;

2.12 **proposes** that it be made compulsory to notify the European monitoring centre of an emergency situation whenever a regional civil protection centre calls external resources to a disaster area. The regional centre should also notify the European centre once the crisis is at an end.

Financial resources

THE COMMITTEE OF THE REGIONS

2.13 **recommends** that financial support for emergency interventions and the creation of a European civil protection system should be reinforced. Not only is such funding essential to solidarity amongst the Member States of an international community like the European Union, but it further provides the means to facilitate integration and coordination of highly specialised forces and units from different EU Member States and regions that are called upon to coordinate their operations in an integrated manner.

Brussels, 30 September 2004.

The President
of the Committee of the Regions
Peter STRAUB

Opinion of the Committee of the Regions on the Communication on the follow-up to the White Paper on a New Impetus for European Youth. Proposed common objectives for voluntary activities among young people in response to the Council Resolution of 27 June 2002 regarding the framework of European cooperation in the youth field Communication on the follow-up to the White Paper on a New Impetus for European Youth. Proposed common objectives for a greater understanding and knowledge of youth in response to the Council Resolution of 27 June 2002 regarding the framework of European cooperation in the youth field

(2005/C 43/11)

THE COMMITTEE OF THE REGIONS

Having regard to the Communication from the Commission to the Council – Follow-up to the White Paper on a New Impetus for European Youth. Proposed common objectives for a greater understanding and knowledge of youth, in response to the Council Resolution of 27 June 2002 regarding the framework of European cooperation in the field of youth (COM(2004) 336 final);

Having regard to the Communication from the Commission to the Council – Follow-up to the White Paper on a New Impetus for European Youth. Proposed common objectives for voluntary activities among young people in response to the Council Resolution of 27 June 2002 regarding the framework of European cooperation in the field of youth (COM (2004) 337 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 5 April 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 191/96 fin) ⁽¹⁾;

Having regard to its opinion on the *Community action programme on European voluntary service for young people* (CdR 86/97 fin) ⁽²⁾;

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 ⁽³⁾;

Having regard to its opinion on the European Commission White Paper on *A new impetus for European youth* (CdR 389/2001 fin) ⁽⁴⁾;

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 ⁽⁵⁾;

Having regard to the Commission report to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on the *Follow-up to the Recommendation of the European Parliament and the Council of 10 July 2001 on mobility within the Community of students, persons undergoing training, volunteers and teachers and trainers* (COM(2004) 21 final);

⁽¹⁾ OJ C 42 of 10.2.1997, p.1

⁽²⁾ OJ C 244 of 11.8.1997, p.47

⁽³⁾ OJ C 168 of 13.7.2002.

⁽⁴⁾ OJ C 287 of 22.11.2002, p.6

⁽⁵⁾ OJ C 295 of 5.12.2003

Having regard to its opinion on the Commission's Communication 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* (CdR 309/2003 fin);

Having regard to its Draft Opinion (CdR 192/2004 rev. 1 adopted on 9 July 2004 by its Commission for Culture and Education, (Rapporteur: **Mr Roberto Pella**, President of Biella Provincial Council (IT/EPP);

Whereas

- 1) local and regional authorities have always welcomed the attention given to youth policies, in the firm belief that the EU, the Member States and regional and local authorities need to persuade young citizens of the importance of active citizenship at national level. It is especially important to give young people the opportunity to contribute significantly to the creation of a democratic Europe based on solidarity, but also a Europe that is strong and competitive from the economic and cultural point of view;
- 2) in the light of the recent enlargement of the European Union, local and regional authorities view the Laeken Declaration, appended to the Conclusions of the European Council of 14 and 15 December 2001, as essential and highly topical, since it describes one of the main challenges facing the European Union as 'how to bring citizens, and primarily the young, closer to the European design and the European institutions'. However, the challenge should have been couched in terms of bringing the European project and European institutions closer to the citizen, and to young people in particular, in order to strengthen relations between the younger generation and existing political structures;
- 3) local and regional authorities consider it vital to achieve implementation of the strategic objectives laid down at the Lisbon and Barcelona European Councils, intended to make Europe 'the most competitive and dynamic knowledge-based economy in the world', and are convinced that youth mobility within Europe is a prerequisite for achieving this objective. A European youth policy should, however, avoid an over-instrumental approach to the younger generation. Youth policy should be underpinned by an appreciation of young people as European citizens of equal worth, with the opportunity and power to forge their own and Europe's future. This will, in the broadest sense, have repercussions for European competitiveness and economic development;

adopted the following opinion at its 56th plenary session on 29-30 September 2004 (meeting of 30th September).

1. The Committee of the Regions' views

THE COMMITTEE OF THE REGIONS

1.1 **agrees** with the Commission in emphasising the need to apply the open method of cooperation to youth problems and action for youth, as called for by the Council, in view of the rapidly changing situation of younger generations in Europe;

1.2 **welcomes** the method used by the Commission, marked by wide-ranging consultation of the relevant actors;

1.3 **considers** that it must be regularly consulted and kept briefed on matters concerning the four priority themes put forward in the Commission's White Paper on A New Impetus for European Youth, especially given that local and regional authorities, on account of their official responsibilities, have always been involved in launching initiatives to encourage active participation by young people in the communities where they live;

1.4 **agrees** with the Commission's observation that there is a worrying loss of interest among young people in politics, but notes that in contrast they are often involved in other spheres of social activity such as voluntary work, and that these represent a form of active citizenship. It therefore **believes** that politicians should take the first step and look again at how they present themselves to young people and adopt an approach that enables them to enhance their democratic credibility with the young. This applies – not least – to the Committee of the Regions, which could take a more proactive approach to recruiting young members, both male and female, whose youth and political commitment at local and regional level could help to improve the Committee's work;

1.5 **is convinced**, on the basis of the present document, and as argued in previous Committee of the Regions opinions on the subject, that 'youth policy in Europe should be visible at all administrative and political levels and in all countries, and be communicated through the channels and in the language that young people in Europe use' (CdR 309/2003 fin). In this connection, the Committee welcomes the creation of a European youth Internet portal at http://www.europa.eu.int/youth/index_en.html.

2. Specific recommendations of the Committee of the Regions regarding a greater understanding and knowledge of youth

THE COMMITTEE OF THE REGIONS

2.1 **considers** that, in order to bring politics closer to young people, the most appropriate approach must firstly be identified and that to achieve this, as the Commission accurately points out in explaining the overall goal of its communication to the Council, 'for timely, efficient and sustainable policy making, it is essential to develop a coherent, relevant and qualitative knowledge area in the youth field in Europe and anticipate future needs, through exchange, dialogue and networks';

2.2 **agrees** with the subsidiary objectives established by the Commission under the overall objective, and **welcomes** the Commission's openness to other priority sectors relevant to youth, alongside those initially indicated by the Member States in their replies to the questionnaire submitted to them. This is an essential feature of a suitable method for studying a sector experiencing such rapid change as the youth sector;

2.3 **emphasises** that local and regional authorities can play a crucial part in locating existing knowledge in youth-related sectors, and **calls upon** the Council to bear this in mind concerning the lines of action identified at national level; the need to 'undertake further studies, collect statistical data and gather practical knowledge of NGOs, youth organisations and young people themselves on the identified themes in order to fill gaps and constantly update knowledge on such identified themes' is indicated, but no mention is made of local and regional authorities. If such knowledge is to be complete and up-to-date, it must also be sought at local level, albeit with national coordination, in order to achieve the overall goal of a coherent knowledge area;

2.4 **considers** that the most efficient means of meeting the need for such coordination at national level would be data collection projects directly involving local and regional authorities, since they can more readily get in touch with young people in their areas, and that to do so, they should be able to draw on appropriate European financial resources;

2.5 **urges** the Commission to take account of the crucial role of schools when drawing up documents relating to the four priority themes of the white paper on youth, since they can provide an ideal channel for young people to fill in questionnaires on the various areas of research. Local and regional authorities' social welfare bodies can reach out to those young

people no longer attending school on account of social disadvantage;

2.6 **believes** that local and regional authorities could usefully seek the active cooperation of the many youth advisory bodies or youth councils established in their areas. These consultative bodies have already proved themselves as an excellent means of building up solid and, in particular, constantly updated knowledge on young people at local level while at the same time fostering active citizenship;

2.7 **considers** that local youth participation and lobby groups, such as youth councils, should also be given decision-making powers in certain areas, together with adequate resources. This would mean that young people could themselves decide on and implement projects that interest and concern them. If youth councils had real decision-making powers, this would project a positive image of democracy to young people and foster youth participation;

2.8 **calls upon** the Commission to involve the local and regional authorities of the new Member States in a direct way and to facilitate the dissemination of best practice among them, for instance by twinning exercises and cultural exchanges between youth councils across Europe;

2.9 **highlights** the importance of seeking a coherent, relevant and qualitative knowledge area in the youth sector in Europe which reflects ethnic and linguistic minorities;

2.10 **welcomes** the Commission's willingness to set up a European Union Network of Youth Knowledge including representatives of all actors in the field in order to discuss methods and future themes as well as to exchange good practice;

2.11 **calls** for the earliest possible preparation of the practical steps for setting up the Network of Youth Knowledge, to which the Commission refers in its discussion of Objective 4 of the communication regarding greater understanding and knowledge of young people, and **asks** that specific provision be made for the participation of Committee of the Regions representatives;

2.12 **notes** that in their replies to the Commission's questionnaire, the Member States do not ask for new structures to facilitate and promote exchange, dialogue and networks to ensure visibility of knowledge in the youth field and anticipate future needs, but wish to build on existing networks and relationships, using and managing them more efficiently. Local authority youth contact points should therefore be strengthened and could serve as an ideal channel for information coming from young people themselves;

2.13 **agrees** with the Commission's emphasis on the importance of mobility in promoting education and training of researchers and experts – especially the young – working in the youth field, as well as of any other actors developing knowledge in the youth field, and **calls upon** the Commission to draw up strategies at European level which can increase awareness among the bodies to which researchers and experts belong, and especially schools and universities, since – as the Commission itself points out in its Report on the follow-up to the Recommendation of the European Parliament and the Council of 10 July 2001 on mobility within the Community of students, persons undergoing training, volunteers and teachers and trainers (COM(2001) 21 final) – in spite of the strategies already implemented, 'the numbers of persons in education and training systems participating in mobility are still very limited';

2.14 **considers** that school teachers should be given a good grounding in the skills and knowledge needed to bring up issues relating to participation and community involvement both in the classroom and the extra-curricular activities of the student body. In addition, youth participation and lobby groups based in schools should be allowed a say in decisions on the planning and implementation of school premises and, for example, extra-curricular facilities.

3. Specific recommendations of the Committee of the Regions regarding voluntary activities among young people

THE COMMITTEE OF THE REGIONS

3.1 **welcomes** the Commission's detailed analysis of an issue which has always been of concern to local and regional authorities on account of the huge importance, primarily at local level, of voluntary associations, representing the living, active heart of every human community;

3.2 **welcomes** the information that many young people are engaged in voluntary activities and **points out** that this contradicts the assumption that young people are not interested in active citizenship. It **considers** it more accurate to describe young people as 'depoliticised' rather than uninterested, since voluntary activities – as the Commission itself states – are a form of social involvement, an educational experience and a factor of employability and integration;

3.3 **suggests** that young people have probably drifted away from politics because it seems to them to be remote from real problems. It **recalls** its recent opinion on the Communication to the Council on the participation and information of young people, which noted that local and regional authorities play a decisive part in European youth policy, being the institutions in closest contact with the younger generations;

3.4 **welcomes** the Commission's recognition of the role of local and regional authorities in implementing the steps to

improve existing voluntary activities for young people, and **underlines** the special relationship that these authorities can establish with young people in their areas;

3.5 **agrees** with the Commission's acknowledgement that voluntary activities for young people vary significantly from country to country, and that the situation is far from identical in the different Member States;

3.6 **hopes** that all the Member States will be alert to the need to facilitate voluntary engagement on the part of young people by removing existing obstacles. More specifically, it is essential that each Member State give legal recognition to volunteer status since treating it as equivalent to employment, as is the case in several Member States, often entails considerable disadvantages;

3.7 **appreciates** the fact that in the communication, the Commission again highlights the need to encourage mobility for volunteers, as it had extensively argued in the Report on the follow-up to the Recommendation of the European Parliament and the Council of 10 July 2001 on mobility within the Community of students, persons undergoing training, volunteers and teachers and trainers ⁽⁶⁾;

3.8 **emphasises** that in order to develop voluntary activities among young people, enhance the transparency of existing possibilities, enlarge their scope and improve their quality, local and regional authorities have a key role to play. They could, for example, set up 'volunteer service centres' to support local volunteer associations and 'volunteer contact points' to guide young people towards the form of volunteer activity best matching their expectations;

3.9 **calls upon** the Council to prepare a specific line of action to foster the establishment, at national, regional and local level, of a full-scale 'voluntary organisation register' in those countries still without one. Where such registers exist, they have proved to be a highly valuable tool, providing a constantly updated picture of voluntary associations within a given territory. The constant updating of these registers means that interested young people can always obtain specific information regarding their activities in this field;

3.10 **remarks**, however, that where there is no prior family awareness, young people all too often only come into contact with the voluntary movement by chance, and that in consequence lines of action should be promoted to bring relevant information into schools from the earliest age. This could be done, for example, by means of meetings, tailored to the age groups in question, with individuals actively engaged in voluntary associations. This would be a shining example of modern civic education geared to the exercise of active citizenship by young people. It therefore **urges** the Commission to recognise the role of schools and the need to raise awareness among teachers;

⁽⁶⁾ COM(2004) 21 final.

3.11 **shares** the Commission's emphasis, expressed in Objective 3 (promote voluntary activities with a view to reinforcing young people's solidarity and engagement as citizens), on creating better conditions for less advantaged young people to participate in voluntary activities, as voluntary work can facilitate young people's integration into society;

3.12 **believes** legal and social protection for voluntary work to be crucial, given that the main feature of voluntary work is that it is unpaid (with the occasional exception of reimbursement of expenses), entails the investment of considerable amounts of time and energy and often involves mobility, and that the substitution of paid work by voluntary work should be prevented. The primary responsibility for providing such protection lies at national, regional and local level but, on the basis of Articles 137 and 140 of the EC Treaty, the Commission could put forward a European charter of voluntary work as an instrument for cooperation and coordination;

3.13 **is pleased** that the Commission has highlighted the need to ensure recognition of voluntary activities of young people 'with a view to acknowledging their personal skills and their engagement for society'. It **hopes** that best practice will rapidly be disseminated at all levels so that such recognition is forthcoming from public authorities, private business, the social partners, civil society and young people themselves, as correctly argued by the Commission in the lines of action for Objective 4;

3.14 **agrees** with the Commission's concern to ensure better recognition, at European level, of the voluntary experience of young people in the framework of ongoing processes and by existing means in other policy fields, especially measures such as Europass, already implemented in the education sector. The same forms of incentive for student mobility could also be applied to facilitate voluntary experience for young people in Member States other than those of their origin;

3.15 **calls upon** the Commission to draw up proposals immediately to extend European Voluntary Service (EVS) to a broader range of activities, and at the same time to promote the preparation by the Member States of similar projects at national level in order to supplement and enrich Community initiatives;

3.16 **welcomes** the proposal made in Article III-223(5) of the draft Treaty establishing a Constitution for Europe to set up 'a European Voluntary Humanitarian Aid Corps (...). European law shall determine the rules and operation of the Corps'; and **considers** that a voluntary corps could provide a framework for a joint contribution by young Europeans to the European Union's humanitarian actions;

3.17 **underlines**, as it has also done in recent opinions on promoting voluntary activity, the need for equal involvement of young men and women and of groups of young people who experience particular difficulty in exercising active citizenship on account of social or ethnic factors or physical or mental disability.

4. General recommendations of the Committee of the Regions

THE COMMITTEE OF THE REGIONS

4.1 **takes a positive view** of the two communications from the Commission discussed in the present opinion;

4.2 **specifically urges** the Commission to keep it regularly informed on the progress of the action programmes implemented by the Member States, disseminating as much information as possible as quickly as possible on good practice. Given the speed of change in the youth sphere, it must be remembered that appropriate practices are also changing rapidly;

4.3 **urges** the Member States to consult local and regional authorities, as has been done in other areas included in the four priorities in the white paper, when drawing up the national reports on the progress of implementation of the priorities regarding 'greater understanding and knowledge of youth' and 'voluntary activities among young people' scheduled for the end of 2005.

THE COMMITTEE OF THE REGIONS

4.4 **sees** the need for greater flexibility in practical politics and **calls upon** the Commission to consider the feasibility of initiatives to alert politicians to the need for them to forge closer contact with young people, in all their complex diversity, in order to know them better and mobilise the essential contribution they can make to actively help bring about a strong, competitive and solidarity-based citizens' Europe; and **believes** that the Committee of the Regions could help here by launching a twinning scheme for young elected representatives from the authorities represented on it;

4.5 **repeats** the Committee's strong conviction, already voiced in its recent opinion on the participation and information of young people, that Article III-182 of the draft treaty for a constitution for Europe should supplement the Treaties' current provisions on youth policy in order to emphasise that the Union aims to encourage young people's participation in democratic life in Europe.

Brussels, 30 September 2004.

The President
of the Committee of the Regions
Peter STRAUB