

CONV 152/02

CONTRIB 55

COVER NOTE

from	Secretariat
to	The Convention
Subject :	Contribution from Mr Karel De Gucht and Mr Andrew Duff, members of the Convention, and Mr Patrick Dewael, observer of the Convention: role of the subnational entities and of the regions with legislative competences.

The Secretary General of the Convention has received the contribution annexed hereto from Mr Karel De Gucht and Mr Andrew Duff, members of the Convention, and from Mr Patrick Dewael, observer of the Convention

NOTE TO THE CONVENTION

ROLE OF THE SUBNATIONAL ENTITIES AND OF THE REGIONS
WITH LEGISLATIVE COMPETENCES

We want to draw the attention of Convention members to the specific situation of a number of subnational public authorities within the European Union, and especially the regions with legislative competences.

Within the last years, the EU and the European policy process have been considered as a complicated and fuzzy system. Therefore, the European Councils of Nice in 2000 and Laeken in 2001 put forward a number of questions on the future of the EU. The European Convention was created to answer these questions, that bear a strong link to making the EU more democratic, accessible, transparent and accountable. The EU has to respond to the challenges her citizens expect her to tackle and deal with. For that goal to be achieved, she has to receive the necessary competences and instruments, while it is also necessary to implicate all relevant levels of policy making in the functioning of the EU.

Recently, the concept of “multilevel governance” has received a lot of attention, as attested by an important number of speakers within the past plenary sessions of the European Convention. On the one hand, since the EU was created more than 40 years ago, many member states have gone through extensive internal and constitutional changes. This decentralisation process has led to more power for regions and local authorities. In several member states, regions are invested with legislative competences, have their own government, their own parliament and issue legislation within their competences : the regions with legislative competences. Within the past two years, significant evolutions, debate or proposals in the decentralisation process have occurred in EU member states (Italy, UK, France). On the other hand, these regions are involved in the European policy process, but remain unrecognized in their role. Therefore, they have come together to bring

their legitimate claims to a public debate. Seven European regions with legislative competences (Bavaria, Catalonia, Flanders, North Rhine Westphalia, Salzburg, Scotland and Wallonia) adopted a Political Declaration on May 28, 2001; this document was further elaborated within the framework of the Conference of the Presidents of Regions with Legislative Competences in Liège of November 15, 2001.

Subnational (local and regional) authorities already are an essential level of governance in the EU. They are associated with the execution of European decisions, rules and policies. They are involved in the implementation of the cohesion and structural policies. The Union promotes their involvement in the concrete implementation of various programmes. Moreover, the regions with legislative competences have obligations within the legislative work of the Union : they are responsible for converting EU directives into their own legislation and for implementing EU policy in all areas falling within their legislative remit. This means that the competences of the regions with legislative competences are affected by the integration process. In some cases, regions with legislative competences even represent their member state in the Council of Ministers in accordance with Article 203 of the EC Treaty. Lastly, in some member states, the regional parliaments or their representatives through a chamber in the national parliament exert a considerable influence on the ratification of amendments to the Treaties.

Although they are a significant partner in the legislative and executive processes of the EU, regions and local authorities are not formally recognized or taken into account on the European level. They are not formally taking part in the EU decision-making, even when they are competent according to their own constitutional situation. The EU legislation is often very detailed, offering little room for discretion, insufficiently adapted to the regional characteristics and needs; the conversion is therefore often a difficult process, especially since regions with legislative competences were not really associated with the elaboration of Community decisions.

It is important that the Convention on the Future of Europe duly considers and recognizes the role and place of subnational entities, and especially the regions with legislative competences, in the European architecture. Even if the member states remain the focal point of the EU, the role of these regions with legislative competences in their internal constitutional structure has to be fully translated in all phases of the European decision making process. The EU has an interest in a direct link with all relevant actors in the field of EU legislation and execution. The guiding principle should be that the EU cannot deny to the regions with legislative competences what they have

obtained within their own countries, and vice versa that the regions with legislative competences can never obtain through the EU political and legal powers which are denied to them at home.

It seems to us that the basic question therefore is : how to fill in the status of the regions with legislative competences in the different areas of state power on the European level : legislative, executive and judicial?

It seems necessary to us to create a specific working group on this topic of the role of subnational entities and especially regions with legislative competences within the Convention.

The Convention should take the real and legitimate solicitudes of these democratically elected policy levels into account to allow them to take their rightful place in the European framework. In this respect, the following questions should be discussed in this working group :

1. Should the regional and local dimension be strengthened within the framework of the general principles of the Treaty and how? Should the democratic legitimacy of the EU be reinforced through the redefinition of the principle of subsidiarity? Should the regional level be taken into account in the question of the delimitation of competences?
2. Should the continuous interaction and cooperation among all spheres of governance (European, national, regional and local) be strengthened and assured and how?
3. Should the legislative competences of regions be truly respected and expressed at the European level and how? How should the regions with legislative competences be consulted and involved in the policy preparation and decision-making of European legislation in the fields of their competences?
4. How to organise the role of the regions with legislative competences in the decision-making in the Council of Ministers?
5. How to associate the regional parliaments in European affairs?
6. Should there be formal ways of interaction between the Commission and the regions and local authorities for the implementation and evaluation of EU policies and how to organise this?
7. How to ensure that regions with legislative competences can defend their rights as well as be held responsible through the EU judicial processes?
8. Should the Committee of the Regions be able to better translate the regional and local entities' positions on the European level? How can the Committee of the Regions be strengthened?

Some of these questions bear a link to the existing work of the Convention. However, we are of the opinion that the Convention offers a unique chance to discuss these rightful demands in their own right. Indeed, all European institutions have expressed their awareness of the political reality : the European Parliament in its resolution of October 2000 on “the Commission report to the European Council : Better lawmaking 1998 – A shared responsibility and Better lawmaking 1999” proposed that “in accordance with the subsidiarity principle and the political and national diversity of the European Union, the amendments to the Treaties should specifically include recognition of, and respect for, the political and legislative powers of the Member States’ internal political units (federated states, autonomous communities, regions) in their executive, legislative and judicial relations with the EU institutions.” The draft report of M. Lamassoure in the European Parliament also proposed a “partner regions of the Union” status and the European Parliament will now address the question of the place of regions with legislative competences in a specific report. The European Commission has launched its White Paper on Governance and has recognized that an enhanced involvement of the subnational authorities can contribute to the quality of European decision-making.

We sincerely hope that Convention members will indicate their support for this demand to the Presidium and the President of the Convention.

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