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Subject :	Contribution submitted by Mr Eduardo ZAPLANA HERNANDEZ-SORO, Mr Jos CHABERT, Mr Manfred DAMMEYER, Mr Patrick DEWAEEL, Ms Claude DU GRANRUT and Mr Claudio MARTINI, observers of the Committee of the Regions and members of the Convention

The Secretary-General of the Convention has received the contribution annexed hereto from Mr Eduardo ZAPLANA HERNANDEZ-SORO, Mr Jos CHABERT, Mr Manfred DAMMEYER, Mr Patrick DEWAELE, Ms Claude DU GRANRUT, Mr Claudio MARTINI, observers of the Committee of the Regions and members of the Convention.

EUROPEAN UNION



COMMITTEE OF THE REGIONS

Brussels, 8 July 2002

CONTRIBUTION OF THE COMMITTEE OF THE REGIONS
TO THE EUROPEAN CONVENTION

The Committee of the Regions,

unanimously adopted the present contribution at its 45th plenary session on 3 and 4 July 2002 (meeting of 4 July).

1. Introduction

1.1 At the European Council held at Laeken on 14 and 15 December 2001, the Heads of State and Government decided, in response to a number of requests, to invite the Committee of the Regions to participate in the Convention on the Future of Europe.

1.2 From the outset the CoR has participated actively and constructively in the Convention's debates, as it will continue to do. Aware of the high importance of the discussions currently in progress, which are to culminate in reform of the European Union, and of its role in enabling the regions and local authorities to be heard by the Convention, the CoR has initiated a broad-based debate, the aim being to submit to the European Convention well thought-out and structured proposals on the various issues to be discussed.

1.3 The document being presented today, which is intended for the members of the Convention, summarises in the light of the current debates the Committee of the Regions' main expectations with regard to the future of the European Union. Naturally the CoR reserves the right to adopt future positions on the various issues being discussed and to develop further the ideas set out in summary form in this document.

2. The CoR's expectations with regard to the future of the Union

2.1 The CoR wants the process of reform of the European Union to help bring the public and the European institutions closer together and to promote greater public support for the European project ¹. The CoR hopes that as a result of this process it will be possible for Europeans both to have a strong sense of belonging to the European Union and to preserve their national identities and regional and local diversity. The preamble to the Charter of Fundamental Rights of the European Union refers to this compatibility, stating that "the **Union** contributes to the preservation and to the development of these common values while respecting the diversity of the cultures and traditions of the peoples of Europe as well as the national identities of the Member States and the organisation of their public authorities at national, regional and local levels".

2.2 The CoR furthermore underlines that democratic legitimacy is not achieved by merely changing structures and procedures, but it is just as much a question of *political culture* and *attitude*. Only if the people have the *ownership* of the process of European integration, will the EU be seen as having democratic legitimacy. EU must be the result of integration of *people*, not just integration of *institutions*.

¹ Extracts from the CoR's Report on Proximity (CdR 436/2000 fin) and the Final Declaration of the CoR on New forms of governance in Europe: Towards more democracy and grass-roots representation (CdR 379/2000 fin)

2.3 In view of this, the CoR welcomes the creation of the Convention as a new, more democratic method for the preparation of a Treaty change. The CoR urges the 2004 Intergovernmental Conference to follow the proposals of the Convention.

2.4 In order to achieve these objectives the CoR favours a constitutional approach which will underpin the community of values uniting European citizens, the basis of European integration for the last 50 years. This should be done *inter alia* through the incorporation of the Charter of Fundamental Rights of the European Union into the Union's new constitutional framework. In short, the planned Europe of tomorrow must flesh out European citizenship. The incorporation of the Charter of Fundamental Rights into the future constitutional text so that it has binding legal force will play a vital role in achieving this. The Charter will enable every national of an EU Member State to recognise European citizenship as a source of new rights and the expression of belonging to a new community - the European Union.

2.5 The approach should also reinforce the application of the principle of subsidiarity, which guarantees the democratic foundation of the Union's institutions and the launch of European citizenship. At the same time, the subsidiarity principle ensures that political decisions are taken at a closer level to the citizen, by means of local self-government. The new constitutional framework of the European Union should also incorporate the European Charter of Local Self-Government, approved by the Council of Europe, with a view to building a Union based on the principles of democracy and transparency, and should draw on the principles set out in the Council of Europe's draft Charter of Regional Self-Government.

2.6 The operation of the Union also needs to be simplified. Thus, in the reform process the European Union's legal status must be clearly defined and its current three-pillar structure, a source of legal heterogeneity which is prejudicial to the Union's capacity for action, must be simplified.

2.7 The objective of bringing the European Union closer to its citizens inevitably requires greater participation of the levels of government closest to citizens, i.e. the local and regional authorities, in the decision-making processes. The CoR intends to highlight its legitimacy and capacity for action as a channel for this participation, as it is the only forum bringing together representatives of the local and regional authorities of all the Member States.

2.8 The CoR would like to reiterate its exclusive legitimacy as institutional discussion partner for the local and regional authorities of the Union and it rejects any attempt to replace it with various structures which do not represent all local and regional authorities. In order to boost its capacity for contact with the general public and its ability to react, the Committee has also launched measures for cooperation with European associations representing local and regional authorities, whose contribution to the European debate it values very highly. This cooperation will be accompanied by a direct dialogue between these organisations and the EU institutions. The forms of dialogue are currently being developed at the Commission as part of the governance reforms.

2.9 The CoR is aware, however, that it will not be a fully effective channel for the participation of the local and regional authorities in European integration as long as it is relegated to its current status of auxiliary, consultative body. It therefore has to call on the European Convention to bolster its institutional role and its functions.

3. Tasks and powers

3.1 The European Convention's debates have so far concentrated to a great extent on the problem of the allocation of powers in the European Union. Indeed the objective of the Convention is to reform the tasks of the EU in order to make it able to respond to the challenges of enlargement and globalisation and reduce its democratic deficit, and in order to achieve this, people must know who is responsible for what in Europe and what Europe is doing for them, which will make it easier to exercise democratic supervision. Indeed, the CoR's first written contribution is on this very subject, its Opinion on the Draft Report of the European Parliament on the division of powers between the European Union and the Member States ².

3.2 In the Convention's discussions a majority has until now been against drawing up lists of powers similar to the systems used for the domestic distribution of powers in the federally organised Member States. The CoR concurs with this approach and considers that the Union should have all the powers necessary for the achievement of its objectives and the most appropriate instruments for carrying out its tasks.

3.3 However, the Committee of the Regions maintains that, in the interests of proximity to citizens, greater transparency and accountability will be needed in future in those areas which are the responsibility of the EU. In Europe too, people must know which political bodies are responsible for specific areas. This is essential if there is to be broader public support for integration and enlargement, and in order to bring about a substantial improvement in the EU's democratic legitimacy. The CoR supports the report submitted annually by the European Commission which examines the distribution of tasks in the European Union from the point of view of subsidiarity.

3.4 Therefore, the CoR considers that a more transparent allocation of tasks in the Union is needed. Public support for the Union can be secured only if European integration proceeds transparently with respect to powers and responsibilities. The CoR is convinced that European democracy will only work properly if the Union's new legislative framework and decision-making procedures become more transparent for citizens and easier to implement. It should be clearly established where political responsibility lies and where democratic controls are exercised ³. The CoR shares the European Parliament's thinking ⁴ on the distinction between the Union's own exclusive, shared and complementary powers, also agreeing that most of these should be shared, which requires the development of co-responsibility mechanisms.

² CdR 466/2001

³ See CoR Report on Proximity (CdR 436/2000 fin)

⁴ EP Resolution on the Division of competences between the European Union and the Member States (2001/2024(INI))

3.5 The CoR feels that any discussion of a better definition and allocation of powers must be based on the principle of subsidiarity but also on the principles of proportionality and proximity. Thus, by virtue of the subsidiarity principle, the European level must give precedence to the other levels of government, the Member States and their regional and local authorities, in those areas which do not fall within its exclusive competence ⁵.

3.6 Other general principles relating to the allocation of powers defined by the CoR are as follows ⁶:

- the CoR calls for the principles of subsidiarity and proportionality, as referred to in the Treaties, to be supplemented by provisions designed to ensure that the powers of the regions and local authorities are respected;
- the CoR highlights the importance of the principle of proportionality, which underpins the system of shared competences;
- the CoR points out, in this respect, that the principles applicable to the division of responsibility and power between central, regional and local government in the individual Member States must be respected.

3.7 With regard to the question of whether to retain Article 308 of the TEC in its current form, the CoR considers that the EU must continue to be able to respond flexibly to ever increasing challenges⁷ and, like the majority of the conventionists, it would like to see the momentum of integration maintained, which means leaving scope for possible future development in the definition of the Union's tasks and the allocation of its powers.

3.8 The Committee of the Regions recalls that its work has highlighted on the one hand the effective participation of the regional and local authorities in the application of a large number of policies developed by the Union and, on the other hand, the decisive influence which these authorities exercise on the Union's success. For this reason, the Committee of the Regions wants the role of the regional and local authorities in the application of Union policies to be recognised and for them to be consulted in those areas relevant to the powers they exercise in accordance with the internal organisation of their state.

3.9 The regional and local authorities attach importance to partnership between themselves and the EU institutions, particularly the European Commission, and they therefore

⁵ Resolution of the CoR of 14.11.2001 on The preparations for the Laeken European Council and the further development of the European Union in the context of the next intergovernmental conference in 2004 (CdR 104/2001 fin) and the Opinion of the CoR of 13.3.2002 on the Draft Report of the European Parliament on the division of powers between the European Union and the Member States (CdR 466/2001 fin)

⁶ Opinion of the CoR of 13.3.2002 on the Draft Report of the European Parliament on the division of powers between the European Union and the Member States (CdR 466/2001 fin)

⁷ Extracts from the Opinion of the CoR of 13.3.2002 on the Draft Report of the European Parliament on the division of powers between the European Union and the Member States (CdR 466/2001 fin)

call on the European Commission to introduce an early consultation procedure in the phase prior to the drawing-up of new policies likely to have an impact on the regional and local authorities or to affect their powers.

3.10 With regard to the distribution of powers, the CoR considers that the political objectives set out in Article 2 of the EU Treaty should be reinforced. It subscribes to the majority line which has emerged in the Convention's debates and in the contributions submitted to it, i.e.:

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

3.11 The Committee of the Regions would also like economic, social and territorial cohesion to be clearly recognised as one of the European Union's priority tasks. In order to reinforce the coherence of the provisions of the Union's legal framework, the Committee would like territorial cohesion to be included among the fundamental principles of the Treaty, alongside economic and social cohesion. Enlargement of the Union will naturally increase its heterogeneity and accentuate the disparities between regions. This will require greater efforts in this area to ensure that the European Union's political and economic integration objectives are met. In addition to providing financial support in the framework of this policy, the Union must also address the effects of the current divergences between tax systems. Strengthening solidarity and boosting shared prosperity are the mainstay of the European venture. In the future there will continue to be a need for a viable structural policy which reinforces European integration and the cohesion spirit within the Union. In this context, it is essential that the future Treaty recognise the status of services of general interest, which play a fundamental role in strengthening social and territorial cohesion in an enlarged Union, in order to guarantee basic human rights and complete the European social and economic model.

3.12 With regard to the monitoring of the distribution of powers, the CoR points out that, ever since it was established, it has repeatedly called for the Treaties to assign to it specifically the task of monitoring compliance with the subsidiarity principle. The subsidiarity principle, as defined in Article 5 of the TEC, by which decisions are required to be taken by

the lowest possible level of government, is a basic principle underlying the operation of the Community, and it therefore seems reasonable that the institution which represents the levels of government closest to ordinary people should have a specific role in monitoring compliance with this principle.

3.13 In this connection the CoR is in favour of greater systematisation of the European Union's legal instruments, which will require the establishment of a legislative hierarchy. Framework legislation and directives should be used, as more appropriate legal instruments, in preference to the more detailed regulations, which should be used only when strictly necessary for the achievement of the objective.

4. More democracy, transparency and efficiency in the European Union

4.1 For the CoR, the only institution representing local and regional authorities in the European Union, strengthening the democratic legitimacy of the European Union inevitably means, as it has pointed out above, increasing the participation of local and regional authorities in the decision-making processes and increasing their participation in the preparation and implementation of European policies, which in turn makes it necessary to strengthen the institutional position and functions of the CoR itself as a channel for effective participation. The CoR welcomes the proposals of the Commission concerning greater involvement of local and regional authorities. However, the CoR underlines that this greater involvement must be two-fold: on the one hand, systematic consultation in the pre-legislative stage, and on the other hand, a strengthened role in the political decision-making process. The CoR and European associations of local and regional government each have their specific responsibilities in the respective stages of the process. The CoR stresses its responsibility in the political decision-making process by virtue of its identity as a political institution.

4.2 The CoR must therefore submit the following essential demands to the European Convention, and these must constitute the main objective of our overall strategy:

1. Recognition of the CoR's status as an institution.
2. Power to bring actions before the Court of Justice, at least in defence of its prerogatives and the subsidiarity principle ⁸.
3. Strengthening of the functions of the Committee.

4.3 On the latter issue, the CoR has repeatedly expressed its wish to be assigned functions going beyond its current purely consultative functions⁹. The CoR should thus be granted the right to a "suspensive veto" in some cases of mandatory consultation. The CoR would also like to be able to attend the dialogue between the Council, the European Parliament and the Commission in the framework of the co-decision procedure in the ten cases of mandatory consultation provided for by the Treaty.

⁸ CdR 104/2001, point 6.4

⁹ See, for example, CdR 104/2001, point 6.3

4.4 The following changes can be made to boost the consultative function:

- There should be a mechanism to ensure that the failure to consult the CoR, where this is mandatory, or the adoption of legislation falling within the CoR's area of responsibility in the absence of the CoR's opinion has practical legal consequences. In particular, the CoR must have the right to bring legal actions in defence of its prerogatives which would enable it to bring before the Court of Justice actions for abrogation of Community measures adopted without the mandatory consultation of the Committee being carried out.
- The CoR calls for strengthening of its consultative function by requiring the institutions adopting a measure to justify failure to take account of the Committee's opinion. This requirement should extend to all areas in which consultation is mandatory.
- And finally, it should be proposed that the list of subjects on which consultation of the Committee is mandatory be extended to all areas relating to the powers of the local and regional authorities, such as, for example, agriculture and research and technological development.

4.5 With regard to its other functions, the Committee of the Regions considers that, as representative of the elected bodies closest to the people, it should have:

- the right to address written and oral questions to the European Commission ¹⁰;
- co-decision functions in a specifically defined and appropriate number of areas – in any event, however, with regard to programmes to promote cross-border cooperation (especially Community initiatives such as Interreg) – bearing in mind the objective, set out in the Laeken Declaration, of simplifying decision-making procedures.

Brussels, 4 July 2002.

The President
of the
Committee of the Regions

The Secretary-General
of the
Committee of the Regions

Albert Bore

Vincenzo Falcone

¹⁰ CdR 104/2001, point 6.6