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"De regionala och lokala myndigheterna i det konstitutionella fördraget"

Konventets generalsekreterare har mottagit åtföljande bidrag från Erwin Teufel, ledamot av konventet.

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Minister-President Erwin Teufel
Member of the European Convention

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Regional and local authorities in the constitutional treaty

PRELIMINARY REMARKS

On 7 February 2003, the Convention will discuss the role of the regions within the constitutional treaty. The **preliminary draft of the Praesidium** of 28 October 2002 (CONV 369/02) in various places rightly presupposes that the regions be of significance within the future Union.

As a representative of the German Laender, which within the Union are state-like regions with legislative competence, I am arguing for a **role of the regions within the constitutional treaty** that reflects their significance for life within our Member States. The same applies to the **communities**, which in all Member States are recognised as the units closest to the citizens. A true Citizen's Europe in accordance with the **principle of subsidiarity** presupposes that the regions and communities have the competencies to resolve locally those issues that can best be solved there.

I know that my position is shared by many members of the Convention und institutions who already have made well-founded suggestions regarding the inclusion of the regions and communities in the European constitution. Let me point specifically to the **Napolitano Report** on the role of regional and local authorities in building Europe which was adopted by the European Parliament on 14 January 2003; the **proposals of the Committee of the Regions** of 20 December 2002 (CONV 494/03), the results of the **3rd Conference of Regions with Legislative Powers** in Florence on 14 and 15 November 2002, or the position paper of the **Assembly of European Regions** of October 2002.

In fundamental accordance with these and other statements, let me summarise the most important regional requirements regarding the constitutional treaty from the perspective of

the German Laender. They concern the following in particular:

- The position of the **regional and local authorities as such** within the structure of the Union;
- The reform of the **Committee of the Regions**; and
- The incorporation of **cross-border and inter-regional cooperation** in the constitutional treaty.

I. Regional and local authorities in the constitutional treaty

1. An addition should be made to the definition of the subsidiarity principle in Article 5 (2) EC Treaty that before the passing of EC regulations the capabilities of the Member States, including their regions and communities, should be considered. This is also called for in the Napolitano Report of the European Parliament.
2. The national identity of the member countries as recognised in Article 6 (3) EU Treaty also includes, in conformity with more detailed regulations in the respective national constitutions, the **regional and local identity**. A revised 'identity clause' within the constitutional treaty should therefore **respect the regional and local self-organisation** of the Member States in keeping with their constitutions (Part of the so-called Christophersen clause).
3. Article 211 EC Treaty should in the future incorporate the obligation of the European Commission to consult the Member States as well as the regional and local authorities, in so far as they are responsible for the implementation and execution of legal acts, appropriately at an early stage within the legislative process. Such early involvement of those affected would, from my point of view, provide a suitable contribution to the strengthening of democratic life within the European Union.
4. As the working group on Subsidiarity has convincingly suggested, the national parliaments should be involved in the '**early warning system**' of the European legislative process for the protection of subsidiarity. In those Member States which

have two legislative chambers, **each of these chambers** should have the right to participate. Through the second chambers, regional considerations could be asserted in good time.

5. An obligation should be created for every proposal on European legislation to **lay open the financial responsibilities** involved in it for the Member States as well as the regional and local authorities.
6. I emphatically support a right of action of the **regions with legislative competence** before the European Court to ensure the protection of their rights and to safeguard the principle of subsidiarity. This is also called for by the Committee of the Regions. The European Parliament, too, in the Napolitano Report has called for a right of action under the terms laid down in respective national law. This should, however, not be made dependent on the approval of the respective Member State.
7. If regions with legislative competence were not awarded a right of action, it would be indispensable that in those Member States that have two legislative chambers **each of these chambers be awarded this right of action** so that regional concerns can be asserted in this way. This suggestion is made in the reports of the working groups on Subsidiarity and National Parliaments.

II. REFORM OF THE COMMITTEE OF THE REGIONS

1. As called for by the Committee of the Regions and others, the reformed Committee of the Regions should be awarded full institutional status, as in the present Article 7 (1) EC Treaty. As the Committee consists of elected representatives of the regional and local level and should in the future be awarded extended rights (see below), it seems appropriate to place it at the same level as the Court of Auditors. The Committee should orientate itself more so than in the past along **representative and democratic principles** and more closely reflect the importance of the regions with legislative power. I support the proposals to rename a thus reformed Committee an **‘Assembly’ or ‘Congress’ of the**

Regions of the Union.

2. The Committee of the Regions should be involved in the '**early warning system**' of the European legislative process for the protection of subsidiarity.

The Committee's present informal **right to ask questions** vis-à-vis the Commission in all regional matters should be embedded in the constitutional treaty.

The Commission should be required to **report** on the opinions of the Committee and in particular to **give reasons** if it does not act in accordance with an obligatory opinion of the Committee.

3. As has often been suggested, the Committee should for the preservation of its rights and for ensuring compliance with the principle of subsidiarity have a **right of action** (Expansion of the present Article 230 (3) EC Treaty).

III. CROSS-BORDER AND INTER-REGIONAL COOPERATION

For some time now, the inner cohesion of the Union has been stimulated by **inter-regional and cross-border cooperation**. Let me point to the successful cooperation between French, German, Italian and Spanish regions ('the four motors') or to inner-regional cross-border cooperation, e.g. in the Upper Rhine region or along the new internal borders to the accession candidates.

Against this background the incorporation of **stated objectives** within the constitutional treaty would be desirable, making inter-regional and cross-border cooperation a formal concern of the Union.

Closing remarks

The consideration of the positions mentioned here in the constitutional treaty corresponds with the present mandate contained in **Article 1 EU Treaty** to create a Union in which

decisions are taken as closely to the citizen as possible, as well as the demand made in the **Laeken Declaration** that the European institutions within the Union must be brought closer to its citizens.