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REPORT

on the role of regional and local authorities in European integration
(2002/141(INI))

Committee on Constitutional Affairs

Rapporteur: Giorgio Napolitano

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PROCEDURAL PAGE

At the sitting of 5 September 2002 the President of Parliament announced that the Committee on Constitutional Affairs had been authorised to draw up an own-initiative report, pursuant to Rule 163 of the Rules of Procedure, on the role of regional and local authorities in European integration (title thus amended on 26 September 2002) and that the Committee on Employment and Social Affairs and the Committee on Women's Rights and Equal Opportunities had been asked for their opinions.

The Committee on Constitutional Affairs had appointed Giorgio Napolitano rapporteur at its meeting of 18 June 2002.

The committee considered the draft report at its meetings of 12 September 2002, 4 November 2002 and 28 November 2002.

At the last meeting it adopted the motion for a resolution by 18 votes to 10, with no abstentions.

The following were present for the vote: Giorgio Napolitano chairman and rapporteur; Jo Leinen and Ursula Schleicher, vice-chairmen; Teresa Almeida Garrett, Elspeth Attwooll (for Andrew Nicholas Duff pursuant to Rule 153(2)), Paolo Bartolozzi (for Jean-Louis Bourlanges pursuant to Rule 153(2)), Juan José Bayona de Perogordo (for Giorgos Dimitrakopoulos pursuant to Rule 153(2)), Margrietus J. van den Berg (for Richard Corbett), Georges Berthu, Carlos Carnero González, Paolo Costa, Jean-Maurice Dehousse, José María Gil-Robles Gil-Delgado, Cristina Gutiérrez Cortines (for Luigi Ciriaco De Mita pursuant to Rule 153(2)), Gerhard Hager, Sylvia-Yvonne Kaufmann, Neil MacCormick (for Johannes Voggenhuber), Nelly Maes (for Monica Frassoni pursuant to Rule 153(2)), Hanja Maij-Weggen, Luís Marinho, Hans-Peter Martin, Iñigo Méndez de Vigo, Camilo Nogueira Román (for Gérard Onesta), Carlos Ripoll y Martínez de Bedoya (for The Lord Inglewood pursuant to Rule 153(2)), Konrad K. Schwaiger (for Antonio Tajani), Mariotto Segni, Joan Vallvé (for Lone Dybkjær) and Joachim Wuermeling (for Daniel J. Hannan).

The opinions of the Committee on Employment and Social Affairs and the Committee on Women's Rights and Equal Opportunities are attached

During the meeting at which the vote on the text as a whole was taken, Georges Berthu said that he wished a minority opinion to be annexed to the explanatory statement, pursuant to Rule 161(3) of the Rules of Procedure

The report was tabled on 4 December 2002.

MOTION FOR A RESOLUTION

European Parliament resolution on the role of regional and local authorities in European integration (2002/2141(INI))

The European Parliament,

- having regard to the Treaty which was signed in Nice on 26 February 2001 and, in particular, to point 6 of Declaration 23 on the future of the Union,
 - having regard to the Declaration on the future of the European Union made on 15 December 2001 by the European Council meeting in Laeken,
 - having regard to the Commission White Paper on European governance¹ and its resolution of 29 November 2001 on the Commission White Paper on European governance²,
 - having regard to its resolution of 16 May 2002 on the division of competences between the European Union and the Member States³,
 - having regard to the territorial organisation of each of the Member States as laid down in their respective constitutions,
 - having regard to the Charter of Fundamental Rights of the European Union,
 - having regard to the Community Charter for Regionalisation⁴,
 - having regard to Article 265 of the Treaty establishing the European Community,
 - having regard to Rules 53 and 163 of its Rules of Procedure,
 - having regard to the opinion of the Committee of the Regions of 21 November 2002 on the role of regional and local authorities in European integration⁵,
 - having regard to the report of the Committee on Constitutional Affairs and the opinions of the Committee on Employment and Social Affairs and the Committee on Women's Rights and Equal Opportunities (A5-0427/2002),
- A. whereas the European Union is based on the dual legitimacy of the States and of the peoples; noting that, over the past few decades, and in parallel with the process of European integration, a growing tendency towards regionalisation or decentralisation has become apparent in most of the Member States and that this has strengthened the responsibilities of numerous territorial entities in advising on the formulation of EU law

¹ OJ C 287, 12.10.2001, p. 1 - COM(2001) 428.

² OJ C 153 E/2002, 27.6.2002, p. 314.

³ P5_TA(2002)0247.

⁴ Article 23(1) of the Community Charter for Regionalisation, adopted by the European Parliament on 18 November 1988 (OJ C 326, 19.12.1988).

⁵ Doc. CdR 237/2002.

and policy, and in their implementation and monitoring, and given them a new awareness of their role in Europe; noting, further, that institutional practice frequently goes beyond what is laid down in law,

- B. noting that this phenomenon has manifested itself in a rich national, cultural and institutional diversity, as evidenced by the constitutional and administrative law of the Member States,
- C. whereas, in view of the challenges, the potential and the uncertainties of globalisation, the EU must simultaneously develop its capacities both for global intervention and for cohesion and citizens' participation, as guaranteed by the regions and municipalities,
- D. whereas awareness of the functions and autonomy of the various regional and local administrations in the Member States has grown in recent years, whereas regional and local administrations can play an important part in bringing the EU closer to citizens, which is a key point in the Nice process, and whereas the Commission White Paper on European administration calls for closer cooperation between the European institutions, national governments, regional and local administrations and civil society,
- E. whereas the regions contribute to the success of European integration in many and various ways, by the application of European law to local matters, by international partnerships and, in border regions, by means of transfrontier cooperation,
- F. recalling the Preamble to the Charter of Fundamental Rights which reads: '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;',
- G. aware that the protection and strengthening of regional and local autonomy in the various European countries represents an important contribution to the process of European integration based on the principles of democracy, proximity and decentralisation of power,
- H. noting that every democratic legitimacy conferred upon institutions at all levels of government possesses its own value and merit and that any view of the Union's institutional system as being necessarily hierarchical and pyramid-shaped must be abandoned,
- I. whereas it is appropriate for the European Union to introduce greater participation of regional and local authorities in the European decision-making process, as early as the stage when Community policies and acts are being devised, and whereas the Union must similarly ensure more effective cooperation with the entities which are actually responsible for implementing the decisions of the Union,
- J. whereas Article 203 of the EC Treaty already allows Ministers from regional governments to take part in the Council delegations of their respective Member States, wherever this is in accordance with that State's constitutional distribution of powers,

- K. aware of the call from local and regional authorities for their role in the decision-making process to be enhanced; taking the view that that request must be interpreted and satisfied without calling into question the institutional balance which has, to date, formed the basis of the success of the Community and of the Union and which must be consolidated in the light of the enlargement of the Union to encompass 25, or even more, Member States,
- L. reaffirming the legitimacy of and the crucial role played by the Committee of the Regions as the institutional interlocutor of local and regional authorities in the Union,
- M. having regard to the importance of the work carried out by the Standing Conference of Local and Regional Authorities in Europe (CLRAE), the Assembly of European Regions (ARE), the Association of European Border Regions (AEBR), the Conference of Peripheral Coastal Regions (CPRM), the Council of European Municipalities and Regions (CEMR), and by Eurocities, which promote democratic local and regional structures and transfrontier and interregional cooperation at European level,

Bringing the Union closer to its citizens

1. Considers that, with a view to bringing the European Union closer to its citizens, the Union must devise new methods of participation that acknowledge the key role to be played by regional and local bodies, in particular in the process for the drawing up of Community decisions and in the implementation of Community policies, since that will increase the support of the Union's citizens for further progress in European integration;
2. Calls for a provision to be enshrined in the Treaties whereby the principle of subsidiarity does not simply govern relations between the European Union and the Member State governments but also other levels of governance and whereby better ways of enabling regional and local authorities are introduced to adapt their implementation of EU legislation and to take account of exceptional local circumstances and needs, while respecting the integrity of EU law and the coherence of EU policy; urges the Member States, therefore, with regard to their constitutional structure, to introduce and, where appropriate, strengthen the internal mechanisms which provide for participation by the regions and territorial authorities, in particular those endowed with legislative powers¹, in all aspects of the process of formation of state policy in the field of European affairs affairs of specific interest to them;

¹ See Convention, Summary Report, plenary meeting of 3-4 October 2002 (CONV 331/02, p. 9).

Participatory representation

3. Supports the call from the Committee of the Regions for the new constitutional framework of the European Union to incorporate the European Charter of Local Self-Government into the *acquis communautaire*, with a view to constructing a Union based on the principles of democracy and transparency¹ and involving dialogue and cooperation;
4. Calls on the Commission to involve, on a full and regular basis, those who will be required to implement them in the preparation of legislative acts and in the devising of Community policies, with the national structure determining the arrangements for the involvement of regional and local authorities in such preparatory work; trusts that the resolve to simplify the way in which the Union operates will be compatible with the opening up of new avenues of participation for all players, current or aspiring, on the European stage;
5. Confirms its support for the concept set out in the Commission White Paper on 'European Governance' which sees the regions acting as mediators between the individual and the European institutions; would welcome proposals from the Convention seeking to add to Article 5 of the EC Treaty a reference to the role of constitutional regions in the Member States; hopes that consultation of regional and local interests will principally take place via the Committee of the Regions or via the most representative European associations for the defence of regional, urban and local interests; calls on the Commission, therefore, to act on the appropriate proposals of principle set out in the White Paper on European Governance;
6. Welcomes the undertaking given by the Commission² that it will explore the possibility of introducing 'tripartite contracts' involving the Union, the Member States and the territorial authorities appointed by them in order to involve the infra-state levels in the implementation of Community decisions as early and as closely as possible;
7. Proposes that cooperation be stepped up between regional assemblies and the European Parliament, in particular through its Committee on Regional Policy, Transport and Tourism;

Access to the Court of Justice

8. Proposes to confer on the regional and local authorities which have legislative powers the right to bring proceedings before the European Court of Justice in order to protect their rights; proposes, further, to confer on the Committee of the Regions the right to bring before the Court of Justice cases where there is a presumption of a breach of the principle of subsidiarity and to appear before the Court in order to defend its rights;
9. Calls on the Convention to consider the possibility of an undertaking being given, either by the Member States concerned or by the Committee of the Regions, to defend before the Court of Justice the rights of territorial entities whose prerogatives are directly

¹ CoR, Opinion (draftsman: Lord Tope), 21 November 2002 (CoR document 237/2002), § 1.21, p. 7).

² as confirmed by Mr Prodi, President of the Commission, (speech 02/344, 15 July 2002).

affected by a Community act;

Transfrontier cooperation

10. Recalls that transfrontier cooperation is a European task and a political objective of the EU; calls on the Commission, in close cooperation with the Member States and with regional and local authorities, to encourage transfrontier cooperation at all levels, above all between neighbouring regions; calls on the Commission to draw up a draft statute to facilitate the implementation of such transfrontier cooperation;

Convention

11. Calls on the Convention to examine, in the form which it considers most suitable, the role of the local and regional authorities in European integration;
12. Proposes the following amendments to the Treaties:
 - (a) in the first subparagraph of Article 2 of the TEU, insert the objective ‘to promote territorial cohesion’;
 - (b) Article 6(3) of the TEU to read: ‘The Union shall respect the national, regional and local identities of its Member States and their domestic structure, regional configuration and local self-government’;
 - (c) in the second paragraph of Article 5 of the EC Treaty, after the words ‘Member States’, insert: ‘or by the regional and local authorities on the basis of the powers granted to them by laws of the Member State in question’ (*remainder unchanged*);
 - (d) the first paragraph of Article 10 of the EC Treaty to read: ‘Member States, together with their local and regional authorities where their constitutional provisions so require, shall, within their respective remits, take all appropriate measures, whether general or particular, to ensure fulfilment of the obligations arising out of this Treaty or resulting from action taken by the institutions of the Community’;
 - (e) insert in the EC Treaty the following new Article 151a: ‘The Community shall, within its spheres of competence, respect and promote linguistic diversity in Europe, including regional or minority languages as an expression of that diversity, by encouraging cooperation among Member States and utilising other appropriate instruments in the furtherance of this objective’;
 - (f) at the end of Article 158 of the EC Treaty, add as a third paragraph to read: ‘The Member States shall undertake to promote transfrontier cooperation at their internal and external borders, to create the requisite legal framework for that purpose and to transpose the statute for transfrontier cooperation’;
 - (g) at the end of Article 211 of the EC Treaty, add the following new indent:
 - ‘- carry out its activities in a spirit of mutual partnership with the Member States and their local and regional authorities.’;

- (h) add the following new paragraph after the third paragraph of Article 230 of the EC Treaty: ‘The Court of Justice may also rule on proceedings for annulment brought by the Committee of the Regions with regard to acts which might infringe the principle of subsidiarity or in order to defend its prerogatives.’;
 - (i) at the end of Article 265 of the EC Treaty, add the following new paragraph: ‘The Council and the Commission shall regularly adopt a reasoned report on the measures taken in response to opinions delivered by the Committee of the Regions.’;
13. Hopes that Article 299(2) of the EC Treaty, which concerns the outermost regions, will be consolidated;
14. Instructs its President to forward this resolution to the Council, the Commission, the Committee of the Regions, the parliaments of the Member States and candidate countries, and the Convention on the Future of Europe.

EXPLANATORY STATEMENT

The role of regional and local authorities must, for a number of reasons, be considered an important issue in the debate on the future of the European Union. Firstly, because the Treaties and the way in which the Union is run need to reflect the process which has taken place within each Member State in the years leading up to and following the signing of the Maastricht Treaty - a process of 'regionalisation' (if this term can be considered to convey sufficient meaning), or rather of a growing recognition of the functions and autonomy of the various regional and local authorities. As a result, these authorities have taken on a more important role in transposing Community legislation and in running Community programmes.

Another aspect which should be carefully analysed is the contribution which regional and local authorities may make to the basic objective of bringing the Union closer to its citizens in a clear and visible manner. As has quite rightly been pointed out, globalisation itself causes people to become more attached to their local roots and to the institutions that are closer to them and with which they can most easily identify¹. We must take account of this reaction and its implications: the challenge we face is to succeed in doing so without neglecting the other fundamental imperative deriving from globalisation and the need to regulate it, i.e. strengthening transnational regional groupings such as the European Union, which is only the first of a number which may be formed in today's world. This means promoting, not weakening, the process of integration in the broader Union which is about to take shape.

To respond to this dual challenge, we need to view the development of the Union's institutions and organisational methods in new terms. This will mean jettisoning a hierarchical, top-down approach, acknowledging a range of intersecting 'spheres of governance' forming a genuine network, especially in the increasingly important area of shared competences. This should not, however, do away with or undermine the role of those institutions which are inevitably 'more remote' from the public, whose task it is to identify the common European interest and devise strategies for developing the Union - the European Council and the European Commission (with the active involvement of the European Parliament). The Community method needs to be strengthened, not undermined. We must avoid confusion and overlapping between the respective roles and powers of the institutions of Member States and of the Union, which are a source of recurrent tension between national and European legitimacy.

Regional and local authorities should be given an opportunity to contribute to the shaping of EU institutional, legislative and governmental decisions and the elaboration of Community policies. They should be able to make a positive and creative contribution, without adopting a distrustful attitude or giving in to any temptation to slow down the EU's decision-making process.

In this context, we feel the following should be proposed:

- the enshrinement in the new Treaty of the principle of local self-government, as defined in the European Charter of Local Self-Government adopted by the Council of Europe;

¹ 'Cities and the Future Governance of Europe', a paper by the Executive of the Eurocities Association, from which I have also drawn some of the points below.

- declarations of principle to the effect that subsidiarity cannot be restricted to state, or even regional level;
- changes in the way the Union is run: based on consultation and partnership requirements, these would ensure that regional and local authorities and/or the Committee of the Regions were involved in elaborating policies and legislative proposals which might have practical implications for these authorities and their powers¹. More specifically, these changes should include new patterns of behaviour on the part of the Commission, with increased opportunities for participation of the Regions, on the basis of Article 203 of the EC Treaty - in line with the constitutional arrangements in each of the Member States - in the Council of Ministers' decision-making, closer cooperation with the European Parliament and possible powers of access to the Court of Justice.

However, it does not seem appropriate or feasible to subdivide autonomous territorial entities into two or more categories, in particular by giving a specific category of Region special status or exclusive powers within the Union. Even a superficial examination of existing patterns and developments in the Member States and the candidate countries as far as regional and local government is concerned shows the wide variety of definitions used and institutional arrangements applied. Any decision to classify or group together such units at European level might therefore prove arbitrary. Of course, there is no denying that some Regions - and even some local authorities - have more powers than others, especially in legislative terms. However, allowing this specific identity and role to find expression within the Committee of the Regions and in their relationship with the European decision-making and institutional system does not necessarily mean that they must form a separate and distinct group. This might in fact unintentionally cause the wider and more varied spectrum of regional and local authorities to be radically undermined.

As regards the powers of the Committee of the Regions, your rapporteur believes that these could be increased without seeking EU institution status for the Committee of the Regions, which would raise major questions and difficulties and, to some extent, disrupt the traditional and still valid Community 'triangle'. He therefore does not feel that it would be possible to involve the Committee of the Regions in legislative codecision procedures.

The overall aim is a more 'bottom-up' approach to preparing EU policies and directives, without however overloading and complicating the decision-making process within the Union. It could be argued that, although this process would be slowed down by greater involvement of sub-state institutions, it would be enhanced in terms of public support. However, a cautious and measured approach should be adopted in relation to such arguments.

1. REGIONALISATION PROCESSES

Over the past twenty years in Europe, there has been a widespread trend towards regionalisation, which has been more apparent in some Member States than in others. However, no common view of what constitutes a 'region' in political, legal or even sociological terms has resulted.

¹ See contribution of the Committee of the Regions to the European Convention.

The term 'region', when used to describe political or administrative entities, covers a wide range of concepts: the constitutions of the EU Member States refer to *Länder* (Germany and Austria), *regions* or *communities* (Belgium), *autonomous communities* (Spain), *city-states* (Germany), *regions* and *departments* (France), *'peripheries'* and *departments* (Greece), *county councils* (United Kingdom and Sweden), *county-boroughs* (Ireland), *special-status regions*, *ordinary-status regions* and *autonomous provinces* (Italy), *provinces* (Belgium, Denmark, Spain, Finland, Italy, Netherlands), *regional associations of local authorities* or *associations of urban regions* (Germany), *districts* (Germany, Luxembourg and Portugal), sometimes using the same terms to describe different levels of government. Some prefer the term *internal nation* to *region*, in the context of *internal enlargement* at European level, which carefully avoids the terms *independence* and *secession*¹. Others refer to *territorial*, *autonomous* or *local communities* or *entities*, depending on their position among the various spheres of governance. Social and economic factors are the starting-point for some, culture and languages for others. According to some observers, North Rhineland-Westphalia and the Benelux countries form a single cultural and economic region², along Euregio lines. Some regions are grouped according to geographic or sectoral criteria, others according to their legislative powers. This wide range of approaches illustrates the wealth of historical and cultural traditions in the countries which make up the current European Union, and also highlights the difficulty - in addition to the inadvisability - of trying to establish all-embracing definitions at European level to cover the regional and local structures that have developed in the Member States.

Regionalisation has, to a large extent, been the result of institutional and political developments specific to each of the countries concerned. The European Communities have played only a minor part in this process, first through Community regional policy and subsequently through the cohesion policy, which have sought to remove regional imbalances. This has tended to encourage administrative regionalisation in almost all the Member States³ - even those that were not ready for it - as a catalyst for implementation of these same policies. It is important, however, to reaffirm the principle of non-interference by the Union in the constitutional arrangements and legal systems of the Member States, whose sovereignty must be fully respected in this area, without the slightest attempt by the Union to influence or exert pressure on them.

2. RECENT MOVES TOWARDS RECOGNITION OF THE REGIONAL DIMENSION WITHIN THE UNION

It might be helpful to recall a few developments which have resulted from changes to the Treaties. The extension of the European Communities' competences and, in particular, the entry into force of the Single Act (1986), have raised awareness among the regions, and especially those with legislative powers, of the issue of power sharing. They have become effectively involved at Community level in particular as a result of the new definition of the Council's composition (Treaty of Maastricht, Article 146, now Article 203, first paragraph, of the EC Treaty). The Treaty of Maastricht also established the Committee of the Regions, consisting of

¹ Neil MacCORMICK, A Comment on the Governance Paper, (book extract), pp. 204-205.

² Wolfgang CLEMENT, Minister-President of North Rhineland-Westphalia, Vortrag 'Europa gestalten - nicht verwalten', Berlin, 12 February 2001.

³ With the exception of Sweden, and England specifically as distinct from the other constituent parts of the United Kingdom.

'representatives of regional and local bodies', to give political voice to regional views. This same Treaty introduced the principles of proportionality and subsidiarity.

Basically, the Member States may be divided up into four types¹:

- federal states;
- regionalised unitary states;
- decentralised unitary states;
- centralised unitary states.

These categories are far from homogeneous, and the constitutional arrangements of some of the countries concerned contain elements which fit into more than one category. The most common form of regionalisation is based on existing local entities (seven out of the fifteen Member States). Federalism and institutional regionalism are to be found in five countries (Germany, Austria, Belgium, Spain and Italy).

Regionalism through federated units and political regionalisation do not exist in the countries of Central and Eastern Europe. Administrative regionalisation is the rule in six of them. Only in Poland and the Czech Republic is a genuine process of regionalisation under way.

3. BRINGING THE UNION CLOSER TO ITS CITIZENS

As has been highlighted since the Nice European Council, the European Union must work towards bringing its institutions and citizens closer together. Numerous bodies at national and sub-state levels have drawn attention to this important point, basing themselves on fundamental principles such as subsidiarity, proportionality and, more recently, proximity. The subsidiarity rule was enshrined in the Maastricht Treaty, and some observers are now calling for it to be given genuine substance² and to be seen as a dynamic process - an active relationship between the local, regional, national and European levels.³ Fortunately, all the different viewpoints can be expressed within the Convention on the Future of Europe with a view to addressing the thorny question of how to bring the Union closer to its citizens in order to achieve greater awareness and acceptance of the European political project on their part.

Despite the creation of the Committee of the Regions - the forum through which the cities and regions can express their views - regional authorities all too often, rightly or wrongly, feel sidelined. Having become considerably more visible and vociferous over the last ten years across nearly the whole of the EU, the regions are now proving particularly sensitive in this area following the commitment made in the Nice and Laeken Declarations to reviewing the question of the division of competence between the Union and the Member States. Indeed, in both Germany and Austria, the *Länder* are calling for greater involvement in European affairs and are seeking to promote reforms to strengthen their position at domestic level. This aspiration is illustrated by the speeches and contributions made by delegates to the Convention representing these regions. In a recent resolution⁴ on the Convention, the *Bundesrat* stressed that a better division of competence between the EU and the Member States was also in the

¹ Committee of the Regions, *Regional and Local Democracy in the European Union*, 1999, p. 13.

² Wolfgang CLEMENT, *op.cit.*, p. 3.

³ Albert BORE, Briefing paper, 16 July 2002, p. 2.

⁴ Bundesrat decision of 12 July 2002 (Decision 586/02).

interests of the Regions, since their scope for action at national level would thus be better protected. More specifically, the Committee of the Regions is calling 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'¹.

A number of questions were raised by the Laeken Declaration, as to whether 'the day-to-day administration and implementation of the Union's policy (should) be left more emphatically to the Member States and, where their constitutions so provide, to the regions', and how to provide 'guarantees that their spheres of competence will not be affected'.

It is quite different, however, and indeed unacceptable to suggest that one should recognise the right to self-determination for every territorial entity in the EU where people have a strong, shared feeling of national identity. The Union cannot intervene in decisions relating to matters falling within the sovereign and exclusive competence of the Member States.

All regional and local authorities share the same common feature of being close to the people. From this point of view, there can be no distinction between them. In the European context it is important to promote the contribution which all autonomous territorial entities - regional and local governments and elected assemblies - can make to bringing the process of European integration closer to the people.

In order to gain public acceptance, it is essential that as many citizens as possible be made aware of EU policies aimed at reducing disparities between the regions in terms of development opportunities and per capita incomes, as well as the resulting responsibilities for regional and local authorities. The Committee of the Regions has rightly highlighted² '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'.

4. PARTICIPATORY REPRESENTATION

If the European Union acknowledges both the existence of the regions and other territorial entities and the contribution they can make in helping to achieve common aims, it seems fitting that a stronger commitment should be made at Community level to actively involving them in the Community process at various stages and levels and in various capacities.

For example, regional and local authorities within Member States could be involved in procedures for revising the treaties. A form of participatory representation could also take place when EU secondary legislation is being drawn up. Early participation on a consultative basis, upstream of the preparation of the decision-making process, could increase the likelihood of correct and dynamic implementation of Community legislation. Cooperation in the early stages would ensure better implementation further down the line.³

The Council's legislative work is another area where participatory representation can play a

¹ Contribution of the Committee of the Regions to the European Convention, CdR 127/2002 fin, 8 July 2002.

² Contribution of the Committee of the Regions to the European Convention, p. 4.

³ Francis DELPEREE, *Le fédéralisme en Europe*, PUF ('Que sais-je?' series), 2000, p. 34.

role. In 1992, the Treaty establishing the European Community broke the monopoly on representation hitherto held by the governments, and the Council now 'consist(s) of a representative of each Member State at ministerial level, authorised to commit the government of that Member State' (first paragraph of Article 203 of the EC Treaty). Each state appoints the most appropriate representative on the basis of its own constitutional rules. The Member States have adopted a range of different solutions:

- in Germany, the representatives of the *Länder* are involved in the work of the Council by virtue of Article 23(6) of the Basic Law ;
- under the Austrian Constitution participation is possible rather than obligatory;
- in Belgium, substitution applies as a rule on any matters falling within the sphere of competence of the regional authorities;
- in Spain, the autonomous communities do not benefit from this new provision;
- Italy does not allow regions to represent the Italian state.

It is important to point out that when a Minister of a region with legislative powers takes part in the Council, he is representing not his region but the federal state. Furthermore, the state alone is considered to be accountable to the Union for implementing Community law properly. The state is responsible for any violation of European law by the regional authorities, irrespective of the authority at fault.

In practice, only Regions in some federal states have benefited from the new wording of Article 203, undoubtedly because this kind of demanding representation requires considerable internal coordination and risks perpetuating cooperation procedures between the federal and federated state, and even between different federated states. There is nothing to prevent the Member States from interpreting Article 203 in a broader sense, particularly those who have yet to go along this route¹. As a general rule, the better regional interests are represented in the national decision-making process, the better they will be represented in Brussels.

Another possible framework for active participation may be parliamentary representation. At present, the role of the European Parliament is to represent directly the people of Europe. However, the Member States are represented in different ways within the European Parliament, including in some cases on a regional basis. The decision here lies with each Member State, which is free to determine whether its representation in the European Parliament should be 'regionalised', with due respect for the principles enshrined in the Act on the election of Members of the European Parliament by direct universal suffrage, as amended by the Council decision of 25 June 2002.

Finally, an open-minded approach should be taken to the issue of how to involve representatives of autonomous territorial entities - possibly through the Committee of the Regions - in the work of the European Parliament's Committee on Regional Policy.

¹ For an example, see Neil McCORMICK, A Comment on the Governance Paper, p. 203.

5. THE COMMITTEE OF THE REGIONS

The Maastricht Treaty set up the Committee of the Regions, which is made up of 'representatives of regional and local bodies', and is a political expression of growing regionalisation. The Committee of the Regions has recently reaffirmed its exclusive legitimacy as institutional discussion partner for the local and regional authorities of the European Union, rejecting 'any attempt to replace it with various structures which do not represent all local and regional authorities.'¹

Significant tensions have been fuelled by the Committee's very make-up. For this reason, the *Bundesrat*, for instance, has referred to the need to increase the political representativeness of the Committee of the Regions by linking the seat distribution system more closely to the population sizes of the Member States (...), with a view to strengthening its democratic legitimacy'.² There has in fact been some discussion about certain shortcomings and inconsistencies which may jeopardise the representative nature of the Committee of the Regions and its capacity to express an opinion on matters where there is no consensus between the various tiers of regional and local authority. However, it is not the purpose of this report to put forward proposals on the composition and method of appointment of the Committee.

There is nevertheless a need to assess how the Committee of the Regions can be given more power, for instance by strengthening its formal rights of mandatory referral, particularly in fields where the interests of the regional and local authorities are at stake.

The Committee of the Regions has a consultative role only and its membership is in the hands of the Member States. It does not therefore formally call into question the institutional balance established by the founding treaties. Some people would like to see the Committee transformed into a (second? third?) Chamber of Regions, alongside the European Parliament (and the Council), but this proposal does not meet with significant approval and raises serious problems.

For that reason, many political players, including the Committee of the Regions itself, seem to prefer the option of developing its consultative cooperation with the European Parliament, which moreover has begun to use the possibility introduced in the Treaty of asking the Committee for an opinion on areas that affect its brief. It is also to be hoped, and is indeed probable, that the Commission will involve the Committee in the preliminary phase of the drafting of new legislation and policies with repercussions on local and regional authorities.

Lastly, the proposed amendments to the Treaty include a provision to empower the Committee of the Regions to instigate proceedings before the Court of Justice against acts which might infringe the principle of subsidiarity or in order to defend its prerogatives.

¹ Contribution of the Committee of the Regions to the European Convention, p. 2.

² Bundesrat decision, p. 10.

27 November 2002

MINORITY OPINION

pursuant to Rule 161(3) of the Rules of Procedure
by Georges Berthu

The Napolitano report exploits every possible ambiguity in the Treaty to establish direct links between the EU institutions and regional and local authorities within the Member States. By doing so, it tends to ignore an age-old and fundamental principle, namely that only the States are members of the Union. They are free to determine their internal structure, and in particular the manner in which their local authorities are involved in decision-making.

The report's basic aim is, of course, laudable. It outlines the fact that, in many Member States, a process of decentralisation has transferred increasing powers to the regions and that it is therefore the Union's duty to introduce 'new participatory methods'.

The conclusions we draw are quite different: the decentralisation policies applied by certain Member States, combined with enlargement, are in fact making the role played by States vis-à-vis the Union in coordinating territorial entities even more crucial. This fundamental Community principle would seem to be more and more relevant.

If the Union wishes to achieve greater proximity, it should, in a spirit of loyal cooperation work more closely, first of all, with the national parliaments.

15 November 2002

OPINION OF THE COMMITTEE ON EMPLOYMENT AND SOCIAL AFFAIRS

for the Committee on Constitutional Affairs

on the role of the regional and local authorities in the construction of Europe
(2002/2141(INI))

Draftsperson: Luciana Sbarbati

PROCEDURE

The Committee on Employment and Social Affairs appointed Luciana Sbarbati draftsman at its meeting of 9 July 2002.

The committee considered the draft opinion at its meetings of 30 September, 11/12 November 2002.

At the latter meeting it adopted the following conclusions by 26 votes with 2 abstentions.

The following were present for the vote: Theodorus J.J. Bouwman, chairman; Marie-Hélène Gillig and Winfried Menrad, vice-chairpersons; Luciana Sbarbati, draftsman; Elspeth Attwooll, Hans Udo Bullmann (for Jan Andersson), Chantal Cauquil (for Sylviane H. Ainardi), Luigi Cocilovo, Proinsias De Rossa, Jillian Evans, Carlo Fatuzzo, Ilda Figueiredo, Anne-Karin Glase, Lisbeth Grönfeldt Bergman (for Regina Bastos), Richard Howitt (for Enrico Boselli), Stephen Hughes, Jean Lambert, Elizabeth Lynne, Thomas Mann, Mario Mantovani, Claude Moraes, Manuel Pérez Álvarez, Bartho Pronk, Lennart Sacrédeus, Herman Schmid, Helle Thorning-Schmidt, Ieke van den Burg and Anne E.M. Van Lancker.

SHORT JUSTIFICATION

The Committee on Constitutional Affairs has decided to draw up and submit to plenary a report on the role of regional and local authorities in European integration, an issue which is central to the debate on the future of Europe.

In his working document, the rapporteur stresses that, since the signing of the Maastricht Treaty, there has been a growing recognition of the functions and autonomy of the various regional and local authorities, which have been increasingly involved in transposing European legislation and in running Community programmes. This fact is particularly significant for issues closely related to employment and social affairs, which was one of the points made by the European Parliament in its resolution of 30 November 2000¹ on the Commission communication entitled 'Acting locally for employment - a local dimension for the European employment strategy' (COM(2000) 196).

In its resolution, Parliament pointed out that local bodies play a very important role in job creation, both because they are close to job-seekers and because they have a better understanding of local needs and handicaps and ways to tackle them. They also play an important role in carrying out initiatives which, by virtue of their integrated nature, are a particularly suitable means of promoting the integration of groups threatened with marginalisation and social exclusion.

In its communication on 'Strengthening the local dimension of the European employment strategy' (COM(2001) 629)², the Commission noted that there was a broad political consensus as to the desirability of strengthening the local dimension of the European employment strategy. Moreover, this consensus has developed as a result of the realisation in many quarters that local actors can make an important contribution, and by overcoming the belief that the local development of employment is insignificant compared to macroeconomic and structural strategies.

As well as being true of employment strategy, this consideration also applies to other areas of the social affairs sector such as measures to combat social exclusion and marginalisation, the use of structural funds and, in particular, the European Social Fund, training, development of small and medium-sized enterprises, and so on.

It is in these very fields that the need to bring citizens closer to the Union is most pressing, although we must not overlook either their attachment to the local dimension and local roots or the process of Community integration. As the working document by the Committee on Constitutional Affairs points out, the division of powers within the Union needs to be redrawn so as to strengthen the Community's commitment to ensuring the active involvement of territorial entities.

With this in view, the Committee on Social Affairs can only welcome the initiative by the Committee on Constitutional Affairs, while stressing the need for thorough consideration to be given to the division of powers and responsibilities between the Union, central

¹ Not yet published in OJ, A5-0341/2000.

² Not yet published in OJ.

governments and regional and local bodies operating in the field of employment and social affairs. The way this division operates should lead not to a fragmentation of efforts but to closer coordination of the actions carried out to improve the efficiency of measures taken in this field.

In particular, changes are needed to the way the Union is run, with the focus on consultation and partnership, ensuring the involvement of regional and local authorities in drawing up policies and legislation which may have practical implications for these authorities and their powers. As the working document points out, these changes should include new patterns of behaviour on the part of the Commission, and closer cooperation with Parliament and the Council of Ministers.

In short, the aim is to secure greater participation in the drawing up of Union policies and directives, without however overloading and complicating the Community decision-making process.

CONCLUSIONS

The Committee on Employment and Social Affairs calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following points in its motion for a resolution:

Paragraph 1

Whereas regional bodies are closely involved in employment and social affairs policies and Community strategies in this area can only be effective if these bodies make a decisive contribution both to implementing the programmes and transposing European law;

Paragraph 2

Whereas, not least in the Charter of Fundamental Rights, where reference is made to regional and local authorities for the first time, the Union has developed a series of instruments to encourage local initiatives in the field of employment, but whereas there are still shortcomings as regards the institutional framework within which regional bodies can make their contribution, their involvement in the drawing up of Community policies and strategies, and information flows;

Paragraph 3

Whereas the Seville European Council of 21 and 22 June 2002 called on the Council and Commission to press ahead with implementation of Article 299(2) of the EC Treaty, which recognises the specific nature of the outermost regions;

Paragraph 4

Calls on the Union, Member States and the representatives of the Committee of the Regions to launch a wide-ranging debate at the Convention on the future of Europe on cooperation between the Community, central governments and regional and local bodies and on the

division of powers and responsibilities between them, *likewise taking particular account of social issues relevant to the Union;*

Paragraph 5

Calls on the Member States, *taking into account the annual coordination rounds for economic and employment-promoting policies, to give details in their respective national plans for employment and combating social exclusion concerning the level of participation by regional and local bodies and the division of powers and responsibilities between central government and local bodies in implementing these strategies;*

Paragraph 6

Calls on the Commission systematically to involve local and regional authorities in drawing up social and employment policies which have a regional impact, particularly as regards measures to combat social exclusion (equal opportunities, immigration, refugees, new forms of poverty), by means of an ongoing dialogue so as to speed up the procedure for information, coordination, cooperation and negotiation established by most states and ensure closer coordination of initiatives;

Paragraph 7

Calls on the Commission and the Member States to establish a circular flow of information and exchange of experience and good practice using open methods of coordination and directly involving local and regional bodies and regional experience;

Paragraph 8

Calls on the Commission and the Member States to simplify the procedures for obtaining European funding, to involve the regional authorities in the designing of the funding programmes and to provide better training for public employees of local and regional authorities on the Union's programmes, initiatives and strategies, *especially in the fields of social affairs and employment;*

Paragraph 9

Calls on the Convention to propose that the Committee of the Regions should have direct access to appeal to the European Court of Justice for violation of the principle of subsidiarity in matters where the regional authority has jurisdiction over areas of employment or social affairs.

OPINION OF THE COMMITTEE ON WOMEN'S RIGHTS AND EQUAL OPPORTUNITIES

for the Committee on Constitutional Affairs

on the role of the regional and local authorities in building Europe
(2002/2141(INI))

Draftsman: Christa Klač

PROCEDURE

The Committee on Women's Rights and Equal Opportunities appointed Christa Klač draftsman at its meeting of 10 July 2002.

The committee considered the draft opinion at its meetings of 4 and 26 November 2002.

At the last meeting it adopted the following conclusions unanimously.

The following were present for the vote: Anna Karamanou (chair); Marianne Eriksson and Jillian Evans (vice-chairs); Christa Klač (draftsperson), María Antonia Avilés Perea, Fiorella Ghilardotti, Lissy Gröner, Rodi Kratsa-Tsagaropoulou, Astrid Lulling, Thomas Mann, Maria Martens, Joke Swiebel and Elena Valenciano Martínez-Orozco.

CONCLUSIONS

The Committee on Women's Rights and Equal Opportunities calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following points in its motion for a resolution:

- A. whereas the European Union builds on firm cohesion among Europe's regions, which are on a scale that people can comprehend, with which they can identify and in which they can feel at home, and whereas the extended regions do not end at national borders,
 - B. whereas awareness of the functions and autonomy of the various regional and local administrations in the Member States has grown in recent years, whereas regional and local administrations can play an important part in bringing the EU closer to citizens, which is a key point in the Nice process, and whereas the Commission White Paper on European administration calls for closer cooperation between the European institutions, national governments, regional and local administrations and civil society,
1. Notes that more than half of European citizens are women and a democratic European society must therefore be built on effective and genuine equality for citizens of both genders, as called for in the Treaty of Amsterdam;
 2. Proposes that the range of basic and further training facilities, particularly for women, should be extended at regional and local level and that the opportunities for women to work full and part time should be expanded in order to exploit the human resources potential available at regional and local level to local government bodies and institutions;
 3. Stresses that people need to be encouraged to exchange views and get to know one another in order to help Europe grow together; considers that this calls for facilities for women and families in particular which would encourage ties between people outside the professional and business context;
 4. Underlines the democratic deficit stemming from women's under-representation in decision-making bodies and administrations in both the public and private sector, and in the political, economic, social and professional domain, at European, national, regional and local level; stresses that women's continuing under-representation in the decision-making process poses a substantial obstacle to the democratic development of the EU's regions and their social cohesion;
 5. Reiterates Council Recommendation 96/694/EC of 2 December 1996 on the balanced participation of women and men in the decision-making process, which calls for a strategy to be developed for active, balanced participation by women and men in the decision-making process in each institution, subsidiary and decentralised body of the European Communities;
 6. Recalls that local government bodies play an important part in the labour market because they are closer to those seeking employment and because they have a better

understanding of local needs and obstacles and ways of removing those obstacles; calls for local and regional administrations to be more involved in the development of new social policies than has hitherto been the case, particularly as regards assessing support for equality and its social implementation;

7. Stresses that promoting equality should be effectively organised in local government bodies and other institutions themselves at local level and should be transferred to all levels and all sections of society and therefore stresses the need to include equality commissions in local administrations and ensure a gender balance in bodies and local organisations of the social partners;
8. Considers that the importance of regional and local administrations should be duly taken into account in the shaping of all Community policies, given that these administrations have raised the level of women's participation in political life, and calls for balanced participation by women and men in the nomination of members of the Committee of the Regions;
9. Recalls the balanced participation of women in the implementation of the Structural Funds and in Leader working groups. Stresses the importance of project funds within Community initiatives going to projects in which both genders participate and which promote good living conditions in the EU's regions for both women and men;
10. Stresses the importance of cross-border cooperation and calls on the Commission to ensure that women are appropriately represented on the various working groups in order to strengthen cooperation and to take particular account of women in the specific support programmes for the border regions.