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"A Constitution for Europe – Responsibility and new opportunities for the Regions with Legislative Powers"

Declaration of Salzburg Adopted by the 4th Conference of Presidents of Regions with Legislative Powers, 11th / 12th November 2003

At the invitation of the President of Land Salzburg, the Presidents and their representatives of Åland, Andalusia, Aragon, Asturias, Baden-Württemberg, Bayern, Bruxelles-Capitale, Burgenland, Calabria, Cantabria, Catalunya, Communauté française de Belgique – Wallonie - Bruxelles, Deutschsprachige Gemeinschaft, Euskadi, Extremadura, Friuli Venezia Giulia, Galicia, Islas Baleares, Lazio, Kärnten, Madeira, Niederösterreich, Nordrhein-Westfalen, Oberösterreich, Piemonte, Puglia, Rheinland-Pfalz, Sachsen, Salzburg, Sardegna, Scotland, Sicilia, Steiermark, Südtirol, Thüringen, Tirol, Toscana, Trentino-Alto Adige, Valle D´Aosta, Vlaanderen, Vorarlberg, Wales, Wallonie, all Regions with Legislative Powers of the European Union, met in Salzburg on 11th and 12th November 2003 for their fourth conference.

Regions with Legislative Powers - strengthening democracy in the European Union

Seventy three regions with legislative powers within the European Union have directly elected parliaments and governments. They apply European law, implement EU policies and are - in many cases – the only and therefore highest lawmaking level of the Member State for the transposition of EU law into the Member State's legal system. Some are included in the work of the Council - and can conduct negotiations – and are involved in the national delegations in the Intergovernmental Conference and some bear a part of the financial contributions to the EU due by their Member State. Hence, the regions with legislative powers are key actors, both from a constitutional and a democratic standpoint.

The Presidents

- discussed the Draft Treaty establishing a Constitution for Europe presented by the European Convention (CONV 850/03),

- analysed the current status of the Intergovernmental Conference noting that regional representatives are involved in the national delegations of Belgium, Germany, Italy and Austria,
- looked into the possibilities and responsibilities opened by the new Constitution for the regions but also for the Committee of the Regions and the European associations of regions and local authorities,
- adopted this "Declaration of Salzburg".

The Presidents of the Regions with Legislative Powers express their satisfaction regarding the progress made from a regional point of view in the draft Constitution. Furthermore the involvement of the Regional Legislative Assemblies in the framework of COSAC is a remarkable success of the works of CALRE, the Conference of Presidents of Regional Legislative Assemblies. They reaffirm their readiness to assume a full role as recognised in the draft Constitution. However, they regret that the role of the regions with legislative powers is not fully reflected in the draft Constitution. Their direct contact with citizens and their political accountability represent values to be adopted by Europe to ensure acceptance for its policies in the long run. According to their respective responsibilities, the regions with legislative powers can make an additional contribution to European integration by active involvement in early and direct consultation and by full participation in the decision making process at national and European level. As a consequence they should be granted the possibility of defence in court.

If future revisions of the Constitution are prepared by a Convention, the regions with legislative powers call on Member States to include representatives of their regions in the national delegations.

They agreed upon the following issues:

- The improvements concerning the regions as proposed in the draft Constitution should be confirmed by the IGC and enshrined in the Constitution.
- Within Member States models for involvement of national parliaments in the early warning mechanism for compliance with the principle of subsidiarity will be developed. Full use should be made of all scope for the involvement of regional legislative assemblies and parliaments.
- The proposals for pre-legislative consultation in the draft Constitution were welcome, but the Commission should extend these to include direct consultation of regions with legislative powers.
- The concept of national identity should be further developed. The positive experiences with Article 203 TEC should be taken into account. Member States' possibility to be represented by a regional minister in the Council's formations has to be maintained. The Presidents encourage Member States to include regions with legislative powers in the

work of the Council.

- Due to their involvement and responsibilities in European policies the regions with legislative powers are willing to offer their support and experience to the Committee of the Regions for applying its rights in the subsidiarity assessment.
- The Committee of the Regions must be consulted before the Commission brings forward a proposal on the rules governing the composition of the Committee of the Regions. The Committee of the Regions shall become a fully fledged institution of the EU.
- The co-operation of REG LEG with the Committee of the Regions and the European associations and the representation of common positions at European level shall be continued.

Numerous REG LEG-proposals included in the draft Constitution

The draft Constitution represents a good basis for the Intergovernmental Conference. It contains substantial improvements regarding

- a better division and definition of powers in the European Union;
- simplifying the Union's instruments;
- more democracy, transparency and effectiveness in the European Union; and
- a Constitution for European citizens.

The Presidents of the Regions with Legislative Powers strongly appreciate numerous provisions in the draft Treaty establishing a Constitution for Europe. They welcome the acceptance of proposals that they themselves had made to the Convention. They urge the Intergovernmental Conference to enshrine these achievements in the Constitution for Europe. Among them are:

- + The recognition of linguistic and cultural diversity among the objectives of the European Union (Article I-3 para 3).
- + The Union shall respect the national identities of the Member States and regional and local self-government (Article I-5 para 1).
- + The EU competences are based on conferral and it is stated clearly that all competences not conferred upon the EU remain with the Member States or with the regions according to the respective internal division of competences (Article I-9 para 2). Three categories of competence are established – exclusive and shared competences as well as areas of supporting, co-ordinating and complementary action – assigning EU competences to one category and defining EU actions permitted in the respective category of competence.
- + The regions and local authorities are expressly considered in the principle of subsidiarity (Article I-9 para 3).

- + The possibility for a Member State to decide its representation in the Council by a regional political representative is maintained (Article I-22).
- + The Protocol on the application of the principles of subsidiarity and proportionality laying down that the regional and local dimensions of the action envisaged have to be taken into account.
- + Before proposing legislative acts wide consultations are to be carried out by the Commission (Protocol on Subsidiarity para 2).
- + The financial impact of Commission proposals and implications of framework law on Member State and regional legislation is to be assessed (Protocol on Subsidiarity para 4).
- + Both chambers of national Parliaments are included in the ex ante review of the observance of the principle of subsidiarity and are able to consult regional parliaments with legislative powers (Protocol on Subsidiarity para 5).
- + Within the scope of ex post review according to the internal legal order both chambers of national Parliaments can bring an action to the European Court of Justice on grounds of infringement of the principle of subsidiarity by a legislative act (Protocol on Subsidiarity para 7).
- + The Committee of the Regions can assert an infringement of subsidiarity at the European Court of Justice within the scope of its obligatory consultation rights (Protocol on Subsidiarity para 7).

New fields of action within Member States

The Presidents discussed in depth the new fields of action as foreseen in the draft Constitution. To pursue the particular interests of the regions with legislative powers, new agreements and legal mechanisms within Member States and enhanced co-ordination within the Committee of the Regions will be necessary.

The existing systems within Member States for regional participation need to be adapted to the early warning system on the compliance with the principle of subsidiarity; or new ones to be developed. The new opportunity for regional parliaments to be included in this mechanism is substantial progress and will strengthen democracy and transparency. The Presidents of the Regions with Legislative Powers ask the incoming Scottish presidency of REG LEG to organise an exchange of experiences about the political and legal proposals in Member States and present conclusions.

Special attention will be paid to the legal dimension of the respect of the national identities and regional and local self-government as laid down in Article I-5 para 1. The regions with legislative powers will present concrete proposals on the basis of the final text of the Constitution.

In addition, and in the light of Article I-3 para 3, by which linguistic and cultural diversity is recognised, the regions with legislative powers ask that concrete policies to guarantee this should be pursued.

An enhanced Committee of the Regions (CoR)

The regions with legislative powers are directly affected by European legislation. Therefore they offer their support and experience to the Committee of the Regions in applying its rights in the subsidiarity assessment and are willing to play a leading role in this procedure. The structure and administrative capacity of the Committee of the Regions has to be adapted accordingly.

The status of the Committee of the Regions will be enhanced by the new Constitution. As it is composed of senior political representatives the Commission must consult it before bringing forward a proposal on the revision of the rules governing the composition of the Committee as foreseen in Article I-31 para 5.

Topics for consideration by the IGC

The Presidents of the Regions with Legislative Powers call upon the Intergovernmental Conference to consider the following proposals:

- + Member States' possibility to be represented by a regional minister in the Council's formations has to be maintained as it is presently exercised.
- + The Presidents call for the obligation on the Commission to consult widely before bringing forward legislative proposals to be extended to include direct consultation of regions with legislative powers.
- + In view of Article III-6 on services of general economic interest, the principle of subsidiarity and the competences of Member States, regions and local authorities must be respected.
- + The regions with legislative powers regret that despite their demand the scope of Articles III-64 and III-65 concerning the internal market is not clearly defined in a way that measures based upon these provisions are primarily and directly aimed at the establishment and functioning of the internal market.
- + The regions with legislative powers regret that according to the draft Constitution they are not yet entitled to refer directly to the European Court of Justice when their prerogatives are harmed or other actors exceed their competences.
- + The regions with legislative powers wish to see the inclusion in the draft Constitution of a legal basis for cross-border and inter-regional co-operation to facilitate enhanced co-operation between the regions for the benefit of the citizens.

A continuing role for REG LEG

The structure and work of the Co-ordination Committee consisting of senior representatives of the presidents has proved useful. Its members also ensure communication of REG LEG activities with the members of the regions of the respective Member State. The REG LEG website provided by Extremadura serves as a platform for this communication.

Conclusions

The Presidents of the Regions with Legislative Powers reaffirm their will actively to support the European project in fulfilment of their mandates. They want to meet the responsibility they were given by the citizens.

Non-transparent procedures of consultation and decision making lead to political abstention. The improved delimitation of powers, the greater involvement of the regions according to their responsibilities and the enforcement of the principle of subsidiarity below as well as at the level of Member States will bring significant progress towards a democratic and transparent Europe - a citizens' Europe.

The co-operation of REG LEG with the Committee of the Regions and with the European associations, namely the Conference of Presidents of Regional Legislative Assemblies (CALRE), and the representation of common positions on European level shall be continued.

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The participants in the 4th Conference of the Presidents of the Regions with Legislative Powers (REG LEG) ask all members of the Conference to support these recommendations and conclusions both at national and European level. They ask the Presidency of the Conference to present them to the Intergovernmental Conference.

Explanatory remarks

REG LEG: An active network established in 2000

The network of the "Conference of Presidents of Regions with Legislative Powers (REG LEG)" was established in 2000. The regions with legislative powers actively contributed to the discussion of the future of Europe and presented political perspectives and clear proposals to Member States, the European Council, the European Parliament and the Convention:

- The Final Declaration of the First Conference of Presidents of Regions with Legislative Powers adopted in Barcelona on 24th November 2000 in view of the European Council of Nice;
- the Resolution "Towards the reinforced role of the Regions with legislative powers within the European Union" adopted by the Second Conference of Presidents of Regions with Legislative Powers on 15th November 2001 in Liège, based on the Political Declaration by the constitutional regions of Bavaria, Catalonia, Flanders, North Rhine Westphalia, Salzburg, Scotland and Wallonia of 28th May 2001; and
- the Resolution adopted by the Third Conference of Presidents of Regions with Legislative Powers on 14th November 2002 in Florence in view of the work of the Convention and the Napolitano Report of the European Parliament on the role of the regions and local authorities in building Europe of 14th January 2003.

During this time, and fostered by the REG LEG demands, there have been some developments towards an increasing role for the regions with legislative powers in the European Union, such as:

- The White Paper of Governance, drafted by the European Commission in July 2001, asking for a greater inclusion of regional and local actors in the policies of the Union;
- The Laeken Declaration in December 2001, recognising for the first time the specificity of the regions with legislative powers;
- The proposal paper about the delimitation of competences between the European Union and the Member States, drafted by the MEP Alain Lamassoure, even if it did not finally succeed in introducing in the final version approved by the European Parliament the proposal of creating a "Partner Region status" for some regions;
- The Napolitano Report, drafted by the European Parliament, focusing on the role of the regions in the European construction;
- The presence of six observers in the Convention, of which five were from regions with legislative powers.

Recently, the Regions submitted contributions and common contributions to the European Convention and to the Intergovernmental Conference launched by the European Council of Rome on 4th October 2003.

Implementing the political guidelines of the annual conferences, the REG LEG co-ordination committee - chaired by Toscana (2002) and Salzburg (2003) - managed the activities in view of the work of the Convention. The chair participated actively in the Convention's contact

group "regions and local authorities". He represented the REG LEG-Network inter alia in the Commission's consultation preparing the communication on an ongoing dialogue with the associations of the regions and local authorities and in a conference organised by Commissioner Michel Barnier on the role of the regions in the EU after enlargement and in view of the European Constitution.

Growing support for the regional political level

The constitutions and institutional systems of the Member States provide for differing levels of involvement of the regions in European politics. Recent developments in some Member States are encouraging. The Italian Law no. 131 adopted on 5th June 2003, opening access to the European Court of Justice for the regions via the national government, deserves special attention.

With an informal ministerial conference the Italian presidency set an action from a regional point of view. Regional representatives from Belgium and Italy (representing the Member State), Finland, Austria and the United Kingdom took part in the conference.

Strong and visible also with allies and partners

The Draft Treaty establishing a Constitution for Europe presented by the European Convention (CONV 850/03) takes up several points proposed by the Conference of Presidents of Regions with Legislative Powers (REG LEG). Close co-operation within the Member States and within the REG LEG network as well as careful co-ordination between the major European associations of regions and local authorities and the Committee of the Regions made this possible. Unanimous common positions on fundamental questions were presented. Additionally the specific demands of the regions with legislative powers - resulting from their special responsibility - were introduced. Members of the Convention were contacted jointly by the presidents of the Conference of Presidents of Regions with Legislative Powers (REG LEG) and the Presidents of regional Legislative Assemblies (CALRE).