

# CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF EUROPE

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## **Opinion 16 (2002)<sup>1</sup> on the White Paper of the European Commission on European Governance**

The Congress,

1. Having regard to:

*a.* the White Paper on European Governance adopted on 25 July 2001 by the European Commission [COM (2001) 428 final];

*b.* the Information Report on European Governance of 9 November 2001, prepared by Mr Koivisto, President of the Chamber of Regions;

*c.* the European Parliament resolution on the above-mentioned White Paper [A5-0399/2001];

*d.* the opinions and reports of the Committee of the Regions of the European Union on European governance and the principles of subsidiarity and proximity;

*e.* the opinions of the Council of European Municipalities and Regions (CEMR), of the Assembly of European Regions (AER) and the Conference of Peripheral and Maritime Regions of Europe (CPMR) on the White Paper, and those of other associations representing local and regional authorities at national and European levels;

*f.* the European Charter of Local Self-Government, which was opened for signature in the form of an international treaty by the Committee of Ministers of the Council of Europe on 15 October 1985,<sup>2</sup> particularly Article 4 of this text, which refers to the principle of solidarity and the right of local authorities to be consulted in the planning and decision-making processes for all matters which concern them directly;

*g.* the draft European Charter of Regional Self-Government which it approved in 1997 and which is currently being examined in detail by the Committee of Ministers of the Council of Europe;

*h.* the resolution of the European Economic Area Joint Parliamentary Committee on New European Governance of the European Union and its implications for the European Economic Area, adopted on 16 October 2001;

2. Taking account of its institutional responsibilities as defined by Committee of Ministers Statutory Resolution (2000) 1, in connection with political supervision of implementation of the European Charter of Local Self-Government by the member states of the Council of Europe and monitoring of local and regional democracy in these states;

3. Bearing in mind:

*a.* the recommendations and resolutions which it has adopted under the process of political supervision of implementation of the charter, especially Recommendation 79 (2000) on the financial resources of local and regional authorities in relation to their responsibilities: a litmus test for subsidiarity;

*b.* the recommendations and resolutions which it has adopted on the situation of local and regional democracy in the member states of the Council of Europe;

4. Having regard to the explanatory memorandum to the above-mentioned White Paper as prepared by the rapporteurs, Mr Halvdan Skard (Norway, Vice-President of the Congress and member of the Chamber of Local Authorities) and Mr Risto Koivisto (Finland, Vice-President of the Congress and President of the Chamber of Regions) with the assistance of Mr Alain Delcamp, Chair of the Group of Independent Experts on the European Charter of Local Self-Government, working under the auspices of the Congress' Institutional Committee;

5. Is aware that the citizens and their political representatives at local and regional level in the member states of the European Union and the Efta/EEA countries<sup>3</sup> sometimes see Community decisions as a set of rules that are difficult to understand and implement and are often unsuited to their day-to-day needs;

6. Considers that this situation also applies to states applying for membership of the European Union, some of which fail to respect fully the fundamental rights of territorial communities in order to expedite the adaptation of national legislation and practice to Community standards (*acquis communautaire*);

7. Considers that, in a large number of European states local and regional authorities are insufficiently associated with the decision-making process on the conception and implementation of the decisions of the competent institutions of the European Union (Commission, Parliament and Council);

8. Holds the view that, to the extent that it is aimed at adapting the way in which the powers of the competent institutions of the Union – and therefore of its member states – are exercised, the White Paper on European Governance constitutes an initial response to the aforementioned problems;

9. Appreciates the fact that this text treats local and regional authorities as public authorities on the same terms as the central authorities of the states in which they operate, and that it quite rightly draws a distinction between local and regional authorities and the groups and associations belonging to “civil society”;

10. Having regard to the foregoing comments, hopes that the proposals set out in the White Paper will be adopted and formalised by the national and European authorities concerned during the process of revision/simplification of European Union treaties, to be initiated in spring 2002,

under the responsibility of the convention established by the Laeken European Council in December 2001;

11. Invites the member states of the Council of Europe, particularly those that are members or applicants of membership of the European Union or affected by its policies and regulations through the European Economic Area Agreement, to take immediate account of the proposals set out in the White Paper concerning their relations with their local and regional authorities;

In connection with the contents of the White Paper

12. Congratulates the European Commission on having expressly acknowledged the fundamental role of territorial authorities in a Europe based on “multi-level governance in which every actor contributes in line with his/her capabilities or knowledge to the success of the overall exercise”, stressing that “in a multi-level system the real challenge is establishing clear rules for how competence is shared – not separated (...);

13. Welcomes the fact that the first proposed change in the White Paper reads as follows: “The Union must renew the Community method by following a less top-down approach”. Implementing this proposal would amount to applying the principle set out in the first sentence of Article 4, paragraph 3 of the European Charter of Local Self-Government: “public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen”;

14. In this connection, records its agreement with the suggestion that “proposals (for European Union decisions) must be prepared on the basis of an effective analysis of whether it is appropriate to intervene at European Union level and whether regulatory intervention is needed. If so, the analysis must also assess the potential economic, social and environmental impact, as well as the costs and benefits of that particular approach (...);

15. Considers that this procedure is in line with the second sentence of Article 4, paragraph 3 of the European Charter of Local Self-Government, which lays down that “Allocation of (public) responsibility to another authority (i.e. other than a local authority) should weigh up the extent and nature of the task and requirements for efficiency and economy”;

16. Agrees that application of the principles of openness, participation, accountability, effectiveness and coherence – regarded as fundamental to good governance – requires the national and European authorities to:

*a.* use language that is accessible and understandable to the general public;

*b.* ensure participation by citizens, through their local and regional representatives, in the elaboration and implementation of European Union policies;

*c.* clarify and upgrade the responsibilities of local and regional authorities in developing and implementing European Union policies;

*d.* take the requisite action to ensure that decisions are taken at the most appropriate level, with an eye to effectiveness;

*e.* increase the coherence of Community decisions by associating territorial authorities with national and European decision-making processes with a view to introducing an integrated approach within a complex system;

17. In this connection, considers that the above-mentioned principles incorporate the elements usually associated with the principle of transparency;

18. However, invites the European Commission to add the principle of partnership to the list of principles of good governance. Partnership between all relevant spheres of government and the Commission at an early stage in policy formulation, based on jointly agreed principles, will ensure that local and regional knowledge and conditions are taken into account when developing policy proposals;

19. Is also convinced that application of these six principles could reinforce the principles of subsidiarity, and accordingly stresses the importance of the proposal to the effect that before launching any initiative at Community level systematic checks should be made of whether this level is the most appropriate one. Similarly, it appreciates the invitation to the European Union legislative bodies to confine themselves to the fundamental issues by having frequent recourse to framework directives, which allow states, as well as regions and local authorities, sufficient room for manoeuvre to adapt them to local conditions, which is in keeping with Article 4, paragraph 5 of the European Charter of Local Self-Government;

20. Would like to point out that one of the first preconditions for implementing the principle of subsidiarity is compliance with Article 3, paragraph 1 of the European Charter of Local Self-Government, aimed at ensuring that local authorities and, if appropriate, any other territorial authorities potentially covered by this treaty, have “the ability ..., within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population”;

21. Considers it useful to emphasise that such ability can only exist if the territorial authorities are entitled to exercise their own specific powers in the fields of most direct concern to their communities. This right should be given concrete expression by allocating a minimum number of basic responsibilities to such authorities, either in general legislation or, better still, in the constitution;

22. Is convinced that application of this principle as a regulating principle for relations among the local authorities, the regions, the central or federal state and, where appropriate, the European institutions, means that the national, or indeed European legislator must avoid over-regulating in any fields coming under the responsibility of the local and regional authorities, so as to leave them sufficient room for manoeuvre;

23. Is also of the opinion that the local authorities' financial resources must be on a par with their responsibilities, as this is a litmus test for application of the principle of subsidiarity and for the establishment of sufficiently high-quality governance by the central and European authorities *vis-à-vis* local and regional authorities. The CLRAE therefore calls for the implementation of the European Union Treaty article on economic impact assessment of European Union regulations;

24. In the reform process and definition of European governance it is essential to determine the respective competence and to take the principles of proportionality and subsidiarity more into account. The criteria for all the preparatory processes of European Union actions should be precisely assessed; why are actions at European Union level necessary, which matters belong to European Union institutions and which matters fall under the competence of the member states, and how the disparities between member states, regions and localities have been taken into account;

25. Backs the idea of "Reaching out to the citizen through local and regional democracy", and accordingly appreciates the explicit recognition of the fact that territorial authorities, in their capacity as public authorities, are now responsible for implementing European Union policies in a whole range of public fields of action;

26. In this connection, agrees with the proposal that "the principal responsibility for involving the regional and local level in European Union policy remains and should remain with national administrations", and the view that "national governments are often perceived as not adequately involving regional and local actors in preparing their positions on European Union policies";

27. Bearing in mind the principles set out in the European Charter of Local Self-Government (Article 4, paragraph 6) and the draft European Charter of Regional Self-Government, records its agreement with the proposal that "each member state should foresee adequate mechanisms for wide consultation when discussing European Union decisions and implementing European Union policies with a territorial dimension", and that "the process of European Union policymaking, in particular its timing, should allow member states to listen to and learn from regional and local experiences";

28. Holds the view that this latter point should also refer to non-member states, especially countries maintaining particularly close relations with the European Union, namely the Agreement on the European Economic Area;

29. Welcomes the intentions of the European Commission with regard to ensuring "that regional and local knowledge and conditions are taken into account when developing policy proposals", wishes to strongly encourage the Commission to persevere in its endeavour to "organise a systematic dialogue with European and national associations of regional and local government, while respecting national constitutional and administrative arrangements", and would like to be involved in the co-

operation to be established in this context among the aforementioned associations and the Committee of the Regions;

30. With a view to greater flexibility and respect for the diversity of local conditions, supports the proposal to ensure "more flexibility in the means provided for implementing legislation and programmes with a strong territorial impact (...)" and the proposed introduction of target-based, tripartite contracts concluded between European Union member states, local and regional authorities and the Commission in order to improve implementation of European Union policies;

31. Is prepared to help prepare the territorial authorities in question for participation in programmes to develop indicators, such as by facilitating identification of the fields requiring greater coherence, with respect for the Council of Europe's legal instruments in the fields of local self-government, spatial planning, transport and environment;

32. In connection with implementing European Union decisions, considers that in some fields the co-regulation procedure for developing implementing measures could provide a particularly useful model for participation, enabling the know-how and grass roots experience of territorial authorities to be used to advantage;

33. As regards the relations between the Council of Europe and the European Union in the field of local and regional democracy, invites the competent European Union institutions and bodies, as well as the European Union member states, to promote and reinforce legal guarantees and encourage the exercise of local and regional democracy with respect for the principles set out in the charters mentioned in paragraph 1 (f and g) above, bearing in mind the recommendations adopted in this field by the Committee of Ministers, the Parliamentary Assembly and the Congress, each in its respective field of competence;<sup>4</sup>

34. As has been pointed out in several paragraphs of this opinion, it would appear necessary for the European Union, which has issued several directives directly affecting regional and local responsibilities, to apply the principles of the European Charter of Local Self-Government and consequently for the European Union to adhere to the principles of the charter, at least by means of a solemn declaration, in connection with any of its activities liable to affect the interests of local and regional authorities;

35. In connection with relations among the various levels of central or federal, regional and local government within individual states, is determined to continue its efforts to apply the principles of subsidiarity and local and regional self-government on the basis of the principles set out in the aforementioned charters;

36. In particular, as part of its responsibilities *vis-à-vis* political supervision of implementation of the European Charter of Local Self-Government, wishes in the near future to explore in greater depth the issue of the right of local authorities to be consulted in the planning and decision-making processes for all matters which concern

them directly, as well as their right of association at national and international level.

1. Discussion and adoption by the Standing Committee of the Congress on 22 March 2002 (see document CG (8) 29) draft opinion, presented by Mr R. Koivisto and Mr H. Skard, rapporteurs).

2. So far the Charter has been signed by three member states of the Council of Europe and ratified by thirty-four.

3. The three member countries of the European Free Trade Agreement (Efta) that have signed the Agreement of the European Economic Area (EEA), namely Iceland, Liechtenstein and Norway, have to comply with the bigger part of European Union policies and regulations relating to the Internal Market.

4. It should be noted that following the conclusion of an agreement with the Committee of the Regions in recent years the Congress has undertaken to prioritise the development of local and regional democracy in the states applying for membership of the European Union.