

European Parliament Report on the Committee of the Regions (4 November 1993)

Caption: Report of 4 November 1993, drawn up by the Committee on Regional Policy, Regional Planning and Relations with Regional and Local Authorities, on the participation and representation of the regions in the process of European Integration: the Committee of the Regions. In the explanatory statement, the rapporteur, Mario Melis, outlines the development of the role played by the regions and by local authorities in the European Union. The European Parliament adopted a resolution on this matter on 18 November 1993.

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Report of the Committee on Regional Policy, Regional Planning and Relations with Regional and Local Authorities on the participation and representation of the regions in the process of European Integration: the Committee of the Regions

4th November 1993 A3-0325/93

Rapporteur: M. Melis

[...]

B) Explanatory statement

In the second half of the twentieth century, against a backdrop of events which have changed, disturbed, fostered and conditioned relations between the peoples of the world, Europe has seen the simultaneous development of two apparently unconnected and independent historic processes: the establishment of the European Community and the emergence of a critical rethinking of the democratic organization of its member states through a new and more widespread distribution of power. Apparently the two processes are unknown to each other.

In fact, European integration has proceeded at some remove from the great reforms of the member States, largely brought about by internal problems connected with economic efficiency and the need for greater democracy or administrative reorganization within the state.

This push for innovation was prompted by the need for people to overcome the disagreements, inconsistencies and imbalances which had characterized the dynamic drive behind the constitution of individual states, but without solving them, generated as they were above all by the centralization of power, culture, economic resources and the very political and administrative organization of the state. Thus we have seen, and are still seeing, a widespread move towards decentralization which, though taking different institutional forms, is the expression of a will so strong and general that it gives the Community itself a new meaning. It may well be concluded that the dynamic processes involving the Community as well as the Member States, though apparently independent of one another, are intimately linked and form two sides of the same coin.

The countries of Europe have to deal with two elements which appear to be opposed but which are closely linked and both aim towards the objective of institutional pluralism.

The simplicity of the unitary state is overlaid with more complex forms of power: on the one hand the Community and on the other the Länder, Regions, Autonomous Communities, etc.

This new distribution of power forces states to deal with a supranational authority and, within their own borders, with regional authorities which tend to organize themselves (or are already organized) into institutions with autonomous powers, able to assume, in accordance with their respective constitutions, powers and duties previously covered by central government.

The Community itself takes note of this in the Maastricht Treaty: it moves away from being a simple provider of funds and opens up a political relationship with the regions.

The Community is therefore built on three levels: the European Union, the State and the Regions: a response to the growing complexity of economic, social and political life.

The Treaty of Rome

With the exception of the autonomous institutions of the Federal Republic of Germany, Belgium and the five special statute regions of Italy, the Regions are a recent innovation in Europe and are therefore substantially ignored by the Treaty of Rome. It refers to them merely as regional bodies, the targets of

Community policies aimed at restoring economic balance.

The Single Act, though introducing provisions in the field of economic and social cohesion, makes the Regions one of the pillars of Community integration because of their disadvantaged economic position.

The reform of the Structural Funds with the introduction of partnership anticipates a clear regional development in the Community. Working at the operational level of regional units capable of planning policy measures, partnership breathes political life into the relationship with regions and local bodies because of their thorough knowledge of their respective areas and problems and their organizational capacity to carry out those policy measures. Partnership therefore creates the conditions for regional institutions to play an active role.

Community programmes therefore gain in effectiveness and productivity, but above all they involve the people more in the process of development which, though local, has a European feel and dimension.

Partnership thus becomes an instrument for 'Europeanizing' citizens through grass-roots democratic institutions, which are the most direct and immediate product of the people.

However, its implementation has given rise to certain difficulties and resistance formally justified by the literal provisions of the Treaties which make the Member States the Community's only interlocutors.

In fact, the Regions have no real guarantee that their own choices will be confirmed at Community level, even if they are taken up clearly in accordance with the constitutional provisions of their respective Member States.

Rather than the result of a wish to centralize political power, your rapporteur believes that this situation arises from a tenacious resistance on the part of high-level bureaucracies in the central organs of the state, which are afraid of losing a large part of their powers and therefore wish to reappropriate those powers constitutionally recognized as belonging to local and regional authorities.

There is therefore a clear contradiction: on the one hand the Community and the policy choices of its leaders open up new and significant areas to grass-roots democracy, while on the other hand state bureaucracies (with the willing connivance of those who worship an irretrievable past) try to oppose the new trends by 'renationalizing', in the name of Europe, policies and powers constitutionally conferred on and managed by regional and local authorities.

Both the Commission and the Council see the need to establish a closer relationship and cooperation which would bring the regions within the Community framework, making them active protagonists on matters which directly concern them and which are in any case, in the national and European order, in their sphere of competence or interest. There is obviously a close link between the consolidation of a European culture and mentality and the widespread participation of citizens and the regional institutions which create them.

The greater the participation and the more widespread the distribution of power, the less danger there is of abuses of power not so much by Eurocratic or state authority but authoritarianism.

In this spirit the European Parliament organized two conferences with the regions of the Community: in 1984 and 1991 it declared its unreserved support for the institutionalized participation of the regions in European integration and at the same time called on the Member States to step up their policies on regional decentralization.

The Treaty on European Union

The agreements signed on 7 February 1992 mean a profound transformation of the Community. From being a mere area without frontiers permitting the free movement of persons, goods and capital, it now assumes the actual 'government' of the economy and, though not completely, important responsibilities in the

management of Member States' home affairs and foreign policies.

The inclusion in the provisions of the Treaty of Rome of rules on European citizenship and asylum provides confirmation of the policy-making role of the future Union.

The following measures are in line with this role:

- (a) the gradual abolition of administrative tasks in fact carried out with a centralizing aim by the 'Eurocracy',
- (b) strengthening of the Commission's legislative role and its tasks of direction and control,
- (c) increasing the powers of the European Parliament and more fruitful relations between Parliament and the Commission and Council.

Just as important is the creation of a regional representative body, the Committee of the Regions, which formalizes direct and effective interaction between the Community, the regions and local bodies required to give their position, in a spirit of cooperation, on a large number of matters expressly submitted for their appraisal and, where they consider it necessary and advisable, on matters on which the Economic and Social Committee is consulted in accordance with Article 198, with the Committee of the Regions having the possibility, where it considers it necessary, to deliver an opinion to the Commission and Council on various subjects on its own initiative.

Grass-roots democracy as a whole is conceived along these lines: regions and local authorities, rich and poor, are directly involved and required to carry out a policy-making role; so, from being simply on the receiving end of policy choices they now take an active role in formulating them. The problem is guaranteeing that the competences of the various institutional levels are respected.

The Maastricht Treaty responds to this problem with three instruments: the principle of subsidiarity, the Committee of the Regions and the possibility for the regions to take part in the Council of ministers under an amendment to Article 146 EC.

The principle of subsidiarity

Respect for various competences is guaranteed through:

- (a) self-discipline by the Commission called on by the Lisbon European Council to justify its action in relation to the principle of subsidiarity;
- (b) the Council's traditional reluctance to deprive itself of powers and confer them on the Community;
- (c) parliamentary control;
- (d) control exercised by the future Committee of the Regions.

The concept of subsidiarity as expressly referred to in the preamble and Article 3b of the Maastricht Treaty therefore assumes fundamental importance.

The preamble refers to '*an ever closer union among the peoples of Europe, in which decisions are taken as closely as possible to the citizen in accordance with the principle of subsidiarity*', and Article 3b stipulates that '*in areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community*'.

It goes on: '*any action by the Community shall not go beyond what is necessary to achieve the objectives of*

this Treaty'.

Three concepts give the two provisions a unitary and integrated meaning: the ever closer union among the peoples of Europe, the principle of subsidiarity guaranteeing that decisions are taken as closely as possible to the citizen (preamble) and the natural exclusion of the higher powers from decisions which could be taken as closely as possible to the citizen (Article 3b).

Article 3b does in fact contain some ambiguity in that by invoking the principle of subsidiarity it justifies Community action on objectives which the Member States could not achieve.

The literal interpretation of the provision would seem to exclude sub-state institutions from implementation of the principle of subsidiarity, contradicting the important wording of the preamble which, in accordance with the same principle, provides for decisions to be taken 'as closely as possible to the citizen'.

In your rapporteur's opinion, this contradiction is quite obvious.

The reference to the Member States cannot only mean bodies such as governments or parliaments, but must include all the institutions in the state.

The state is the people and the territory, based on an institutional pluralism which in fact defines the state's organization, from the municipalities which pre-date the very notion of the state to the most complex regional bodies and the legislative organs of government which have different tasks, competences and responsibilities at central and regional levels in the individual Member States.

What sense would there be in excluding the Regions and municipalities from application of the principle of subsidiarity?

In order for citizens, all citizens, from the most remote peripheries to the centre of Europe, to play an active role in subsidiarity, Community policy must not make them into subjects, mere recipients of rules, rights and duties, but must call on them in a spirit of solidarity to cooperate in the process of creating the Union; in short, it must make them citizens of Europe. This is a multidirectional process: from the centre to the periphery, from periphery to centre.

The Community is created and grows in strength not through the enlightened will of a few leaders but through the efforts of people freeing themselves from old, obsolete systems of power and, in a spirit of international solidarity, extolling the values of diversity, which can in itself enrich the common creative process by sweeping aside the aridity and dullness of conformism.

The Regions, like local authorities, express values, traditions, culture and interests which are channelled into the constitutional order of the states for which they provide a source of administrative, sometimes and generally legislative and, in any case, government work.

To exclude these institutions from the principle of subsidiarity is to fix the European process at the top tier of the state and to marginalize citizens.

Parliament's repeated complaint of a democratic deficit finds in the regional dimension and more generally in grass-roots democracy the most solid pillar on which to build the politics and the solidarity of Europe's future.

In line with repeatedly confirmed policies, Parliament should seek more explicit reference to local and regional authorities on the subject of subsidiarity during the revision of the Treaty scheduled for 1996, which should formalize the Regions' right to take action before the Court of Justice, as may any legal person.

With this in view, it is to be hoped that the European Parliament, Council and Commission will draft a joint declaration on the statute and role of the Regions in the Community in order to apply the criterion of

subsidiarity in relations between the Community and the Regions.

It is also very much to be hoped that the Institutions will endeavour to encourage the Regions to make use of interregional cooperation. This is an instrument which ties in well with the principle of subsidiarity and which is the best way of implementing the principle set out in Article A of the Maastricht Treaty. There should be no doubt that decisions taken by the regions, belonging to different Member States, with common problems and decision-making capabilities conferred on them by their respective constitutions, are not only highly democratic but are the most apposite and effective decisions possible, precisely because they are taken by bodies close to the problems involved.

The Committee of the Regions

In setting up the Committee of the Regions the Maastricht Treaty brings the substate regional bodies into the Community decision-making process, even though they only have an advisory role.

Articles 198a, 198b and 198c which stipulate its institution, composition and duties are somewhat ambiguous and raise certain questions.

Article 198a states that: 'a Committee consisting of representatives of regional and local bodies, hereinafter referred to as 'the Committee of the regions', is hereby established with advisory status'. Some, including the rapporteur, interpret this to mean that the committee represents socio-economic bodies of regional importance.

Representatives of the Regions, in those states which have set them up, are therefore called upon to take part.

However, where Regions have not been set up, representatives of local bodies will represent the interests of the regions on the Committee in the areas in which they are competent.

This is for obvious reasons of consistency within the Committee.

It would seem ill-advised to call on people from different types of institution to represent the same interests, an inevitable cause of disputes which would only serve the policy of 'divide and rule'.

The radical difference in the tasks assigned to the Regions and municipalities by the various different national systems: legislative tasks, planning and government for the former, administrative and executive tasks for the latter, gives them an absolutely essential role with regard to subsidiarity, but their roles are quite different when it comes to their contribution to European integration.

Nevertheless, in the rapporteur's opinion a pragmatic approach would allow Parliament to overcome sterile opposition which can only serve those who wish to rob such an innovative institution as the Committee of the Regions of all its substance from its very inception.

Such pragmatism is behind the resolution adopted by Parliament on 23 April 1993 in which it hopes that the Committee will guarantee 'representation of regional and local authorities commensurate with the recognition they enjoy in the institutional system of the Member States' and that 'in those member States with a predominantly regional structure each one of the constitutionally recognized regions should be represented in it'.

The same resolution, which the rapporteur supports, seeks to remove the ambiguity introduced in the third paragraph of Article 198a which gives the member States the right to propose the appointment of members of the Committee.

Reiterating the notion that 'state' does not necessarily mean central government but the state institution called upon by its nature, competences and direct interest to give its position on the decision in question, the

resolution postulates that the representatives on the Committee have a clear democratic legitimacy.

There is therefore no possibility of people who actually represent central government being appointed to represent grass-roots democratic institutions.

Parliament finally stresses that the present form of the Committee is not definitive and hopes that the Committee itself will study the reforms to improve representation and promote more fruitful participation of the regional and local authorities in the future Union. All this in anticipation of the review of the Treaty scheduled for 1996.

Participation in Council decisions

Parliament's resolution of 18 November 1988 supports the wish of the Regions to 'take part in formulating the position adopted by their respective Member States in the Community bodies in so far as this lies within their sphere of authority or when the subject is one directly affecting their interests', adding 'but without detracting from the efficacy of the legislative system of the Community'.

The amendment of Article 146 EC no longer requires representation of central government but simply a representative of each Member state at ministerial level (which may be regional) authorized to commit the government; this means that the regions may take part in the Community decision-making process in the most effective way, playing a role in the institution which holds most of the legislative power and which is ultimately, it must not be forgotten, a chamber of regional representatives at the highest level.

There is no better way of supervising the Community action of central government than by replacing it in the Council of Ministers. The scope of this article need not be emphasized in that its only purpose is formally to institutionalize what was already an agreed practice between the Länder and the German government through the 'observer'. Its scope will be determined by the ability of the regions to agree amongst themselves and with the central governments of their respective Member States. Germany and Belgium will make immediate use of this new institutional possibility.

This article is also significant in that it breaks the link identifying Member State with central government and does this in the very institution which represents the Member States: the Council of Ministers.

As for other aspects of the Treaty on European Union, it may be concluded that the provisions relating to the participation of the regions are subject to development and that it will be the use which the regional authorities can make of them which will determine their effectiveness in the medium term. Without forgetting that the Maastricht Treaty initiates what should be a significant stage in which the regions will have to study and develop the role they wish to play in European integration.

[...]