

**CONFERENCE OF
EUROPEAN REGIONAL
LEGISLATIVE ASSEMBLIES
(CALRE)**

**MADEIRA
DECLARATION**

Funchal, 30 October 2001

Unanimously approved



The Regional Legislative Assemblies once again recognise the Community's crucial role in promoting freedom, security and justice in Europe. The process of European integration which, following the forthcoming enlargement of the Union and the inclusion of new countries shall acquire a new dimension, has had a major impact on Member States' internal administrative structures. Certain issues, such as those related to the sharing of responsibilities between the Community and Member States that will be addressed at the forthcoming Intergovernmental Conference, represent new challenges not just to national parliaments but to federal and regional parliaments as well. These challenges entail a search for objective and appropriate solutions to the legal and constitutional realities of the different Member States.

With this new legal and political context in mind and in reaffirmation of the interest in ensuring the correct and balanced allocation of responsibilities at the European, national and regional levels, the Presidents of the European Regional Legislative Assemblies, meeting in Conference in the city of Funchal, Autonomous Region of Madeira, have adopted the following resolution.

1. Results of the Nice Intergovernmental Conference (CIG)

The Presidents of the regional parliaments believe that the agreement celebrated in Nice between the Heads of States and of Governments was an indispensable step towards the development of the European Union.

Although the final results of the Nice Intergovernmental Conference (CIG) fell somewhat short of the expectations expressed by public opinion in the several Member States, particularly as regards reforms to European institutions and the simplification of the decision-making process within the Community, they nevertheless affirm the underlying principles for future enlargements of the European Union. Thus, the European Union shall be able to continue to fulfil its historic mission of rising above the divisions in our continent to guarantee freedom, security and justice in Europe.

The shortcomings of the results obtained in Nice, when compared to the undertakings that had been assumed, also resulted in the scheduling of a new Intergovernmental Conference, one of whose principal objectives would be to establish “a more exact definition of the responsibilities that are to be attributed to the European Union and to the Member States whilst respecting the principle of subsidiarity”.

The Presidents consider that the description of these responsibilities, together with the definition of the involvement of regional lawmaking institutions in this process, is of extreme importance to the future of the European Union.

2. Post-Nice Process

The Presidents of the European Regional Legislative Assemblies propose that the 2004 Intergovernmental Conference (CIG) take note of the following premises and address the following specific issues:

a) Definition of Responsibilities

A Union of more than 20 members in which economic, social and cultural differences will be greatly increased, should restrict its activities to attaining certain principle objectives that, depending on the scope and the impact of each action, could be best achieved by action on the part of the Community.

Therefore, there must be a greater definition of the areas of shared responsibilities, in accordance with the principle that there ought to be a proximity regarding the elaboration and enactment of policies that guarantees that the Member States and the regions have a clearer notion of their individual sphere of action as well as their respective political responsibility, assuming that decisions will always be taken in the greatest respect of the principle of transparency and as close to the citizens as possible.

By clearly defining the spheres of action and the responsibilities of the several political entities, the citizens to whom these actions are directed will better understand and accept them, thus contributing to strengthening the European Union.

b) The principle of subsidiarity as the criterion for regulating the exercise of Community responsibilities

The responsibilities in those areas where action is best achieved by the Community must be carefully examined with a view to ensuring a better allocation of responsibilities amongst European, national and regional entities.

The principle of subsidiarity, in the substantial sense that decisions must be taken at a level that is as close to the citizens as possible, should be the fundamental criterion for regulating the exercise of responsibilities in those

areas that are currently shared by the Community and the Member States, most especially, when justifying new actions proposed by Community entities.

c) A clear description of the responsibilities

In light of the next CIG, it would be desirable if the extensive list of objectives in Article 3 of the Treaty on European Union were to be replaced by a clear description of the responsibilities. For that reason, the text of the Treaties should be amended to include a description of the procedural hierarchy for action at the level of the Community, as well as a detailed list of the responsibilities that have been allocated to it.

d) Examination of Article 308 of the Treaty on European Union (attribution of new responsibilities to Community institutions with a view to attaining one of the objectives of the Treaty)

The Conference agreed on the need to examine Article 308 of the Treaty, within the scope of the next Intergovernmental Conference, with a view to its eventually being repealed.

e) Reciprocity of the Principle of Loyal Co-operation (EC Art. 10)

The Principle of Loyal Co-operation between Member States and Community Institutions regarding the fulfilment of obligations assumed by the latter under the Treaty must, in the future, apply to both parties, i.e., it must be reciprocal.

Consequently, Article 10 of the Treaty on European Union should be amended to include a paragraph that would compel Community institutions to observe the aforementioned principle of loyal co-operation with Member States, especially as regards respect for their constitutional structures.

f) Definition of responsibilities and the EC White Paper on New Governance

When defining the Community's responsibilities, consideration should be taken of the Commission's efforts, in the context of the present institutional framework, to ensure that these are better achieved as these led to the publication of the White Paper on New Governance. Accordingly, there is an urgent need for a greater compliance with the principles of subsidiarity and proportionality, as required by the Amsterdam Protocol, if we are to promote greater recourse to non-legislative forms of action, improve the Commission's consultation practices, empower national and regional parliaments and establish a legal concept of partnership.

As to the issues pertaining to the Community's more effective exercise of its responsibilities and, in line with this objective, to encouraging more democratic forms of partnership, these do not preclude the need to establish a clear definition of the areas of responsibility that are shared between the Community institutions and the Member States, in view of the 2004 Intergovernmental Conference.

g) Community statute for regions with lawmaking powers

The Presidents propose that the role and statute of regions as functional Community institutions be added to the set of topics that are to be discussed at the 2004 Intergovernmental Conference.

For that reason, regions that are endowed with lawmaking powers should be the object of a specific treatment with a view to including a "Statute of Regions With Lawmaking Powers" in future treaties. This statute should include, among other subjects:

- ***the procedural rights of regions in the context of the Treaties;***

- *creating procedures for consulting regional parliaments before the Commission enacts new measures in matters of regional interest;*
- *establishing institutional contacts between regional parliaments and the European Parliament and the Committee of Regions;*
- the right of regional parliaments to make any contributions they deem appropriate for the attention of the institutions of the European Union, particularly those that have a bearing on the application of the principles of proximity, subsidiarity and proportionality to measures that are being discussed by the Union.

3. Other Regional Issues

a) Reinforcing the Committee of Regions

The Presidents applaud the fact that the Treaty of Nice explicitly requires members of the Committee of Regions to hold a political mandate; they believe, however, that the Committee of Regions' participation in the Union's decision-making process should continue to be developed and expanded. Accordingly, the Presidents propose that:

- r *the Committee of Regions is granted the statute of a Community institution;*
- r *the Committee of Regions is granted the right to appeal to the European Court of Justice for purposes of safeguarding its rights and prerogatives;*
- r *the Commission is compelled to provide the Committee of Regions with regular reports on all its deliberations and actions that have a bearing on submissions from the Committee;*
- r *in the event that the Commission deliberates against a Committee submission, it is compelled to justify its action;*
- r *there is a much closer co-operation between the Committee of Regions and the European Parliament.*

b) The Right of Federal States and Regions to intervene in the European Court of Justice

Federal States and regions with lawmaking powers must be recognised as being entitled to act before the European Court of Justice for purposes of safeguarding their constitutional rights and their internal responsibilities, in light of the correct application of the principles of subsidiarity and proportional representation. Such a right is crucial to reinforcing compliance with the principle of subsidiarity and to guaranteeing that the political decisions are more in tune with the wishes of the citizens of Europe.

c) Right to regional and local self-administration

For Community policies and political processes to come closer to the wishes of the citizens, the right of self-administration must be guaranteed in the European treaties. The same applies to social security and welfare regimes, the responsibility for which should continue to remain the exclusive responsibility of the individual Member States.

d) Insular and outermost Regions

CALRE explicitly recognises the disadvantageous situation of the Insular and Outermost Regions of the European Union.

4. European Union Bill of Rights

The Presidents applaud the approval, in Nice, of the European Union Bill of Rights. This Bill is an important step towards a Citizen's Europe, inasmuch as it asserts the existence of a set of unalienable rights to which all citizens of the European Union are entitled.

One of the objects of the 2004 Intergovernmental Conference (CIG) should be to ensure that the Bill of Rights becomes legally binding through its inclusion in Community Treaties. Inclusion of the Bill in the treaties should not, however, result in an expansion of the area of responsibilities allocated to Community institutions.

Proclamation of the European Bill of Rights paves the way for the debate on the future of the European Union. Bearing in mind the increasing number of Member States, this debate must examine the principles and the ultimate objectives of the European Union and include institutional matters, but not only these. It is up to the national and regional parliaments and governments to encourage extensive public forums and debates that address the different points of view of every social group and public and private entity in the Community, as well as their perception of the ultimate goal of the entire process of European integration.

The organs and institutions that represent the peoples of the European Union have a special responsibility in this debate inasmuch as they are the true administrators of regional sovereignty and identities. Accordingly, it is essential that there be an active solidarity between parliaments at the several levels at which they are represented.

The Presidents of the Regional Parliaments reaffirm their recommendation that the European Bill of rights, approved by the Council of Europe in Nice, should be included in the new Treaty or be consecrated as a binding legal document.

5. The Role of Parliaments in the architecture of Europe

Regional Legislative Assemblies, together with National Parliaments and the European Parliament, are indispensable instruments in the construction of Europe, a process that must follow the principle of parliamentary co-operation. This principle requires the involvement of all liaison entities and procedures at the three parliamentary levels: European, national and regional. Accordingly, the following is considered right and proper:

- i) The role of the Regional Legislative Assemblies within the European Union Member States should be strengthened in order to guarantee the full democratic nature of all actions involved in the adoption and execution of decisions connected to the European process and for this purpose, they must create and cement strong relations with their respective National Parliaments.
- ii) **Regional Legislative Assemblies should be permitted to become members of COSAC (Conference of Community and European Affairs Committees).**
- iii) All European Union texts and institutions should gradually give greater recognition to the Regional Legislative Assemblies, in accordance with the dictate of the EP Resolution on "Improving the Functioning of Institutions without altering the Treaties" of 15 April 1999 (clause 51). Accordingly, we must work towards obtaining, for the Regional Legislative Assemblies, a Protocol similar to that of the Treaty of Amsterdam for European Union National Parliaments.

6. Preparation of the 2004 Intergovernmental Conference

The Presidents are extremely pleased that the Nice Intergovernmental Conference (CIG) charged the Swedish and Belgian Presidents of Council with preparing the next CIG, thus making it possible for the parliaments of the Member States and all interested parties to begin debating, from the beginning of this year, the future of the European Union.

The Presidents trust that regional parliaments shall also be included in this debate as this will contribute to a

more widespread public discussion and reinforce the intermediary role of these assemblies as regards the citizens and thus promote their full understanding of the issues at hand. Accordingly, the regional parliaments should avail themselves of all the opportunities and forums that present themselves over the next few years.

With a view to ensuring a greater transparency and more democratic integration process, an all-embracing forum should be organised to prepare the next Intergovernmental Conference (CIG). This forum ought to include representatives from the several parliaments and national governments, the Commission and the European Parliament, as well as members of regional parliaments.

The Presidents believe that the success of the next Intergovernmental Conference (CIG) shall depend greatly on the attention, understanding and importance that Member States give to the regional factor and its importance to the good performance of the European Union. Regional parliaments may themselves contribute to achieving this objective by hosting debates with all representative regional authorities across Europe.

In this context, they draw attention to some European and Regional institutions such as the Committee of Regions, the Congress of Local and Regional European Authorities, the Assembly of European Regions, as well as the Conference of European Regional Assemblies with Legislative Power.

Co-operation between regions becomes even more significant in an enlarged Union, given that the European Union's lawmaking powers will have an even greater impact on the regions themselves.

Naturally, the role of the parliaments of the federated states and of regions with lawmaking powers will be even more important in this process.

7. Enlargement of the European Union

The Presidents consider that enlargement of the European Union is a vital necessity for which there are no realistic alternatives.

Enlargement of the Union will offer great economic opportunities to the majority of the present Member States, given that it shall lead to a uniform Internal Market of approximately 500 million consumers.

The Presidents are in favour of a rapid enlargement of the European Union. Now that the Treaty of Nice has endowed the Union with the institutional conditions that it needed to be able to welcome new members as of 1 January 2003, it is up to those States who wish to join the Union to meet all the required political and economic criteria for accession (the Copenhagen criteria).

The Presidents feel that in order to prevent possible negative political or economic responses to the enlargement on the part of the citizens of the present Member States, there is a need to establish appropriate periods of transition, particularly as regards the free circulation of people, economic and social cohesion and the common agricultural policy.

The Presidents consider that financing of the enlargement should be based on an equitable distribution of the costs amongst the Member States of the Union, bearing in mind the foreseeable impact that this will have on each country. Consequently, there is an urgent need for reforms to several Community policies and to the structural policy of the European Union, as regards its political structure, inter-territorial solidarity and cohesion, the common agricultural policy and the European Union's finances.

8. Contribution of the Federal Parliaments to the enlargement of the European Union

a) Strengthening of cross-border and inter-regional co-operation with Candidate States

The Presidents consider that cross-border and inter-regional co-operation between regions of Member and Candidate States, particularly at the level of their regional parliaments, could contribute greatly to approximating the new States to the Union and to their full integration.

For that reason, the regional parliaments of the present Member States should endeavour to promote the forming of networks of co-operation, along the lines of those that already exist in the area of the Baltic and in the inter-regional Parliamentary Council of the Council of the Upper Rhine.

In addition to smoothing the accession of the candidate States, these partnerships would contribute towards building a European Union that would be closer to its citizens and thus, reinforcing the bonds of solidarity within the Union.

Co-operation with the regions of candidate States is also an important instrument for encouraging and developing decentralised governing structures within the candidate States.

The Presidents further consider that the existence of effective administrative structures in the candidate States is essential to their achieving a successful accession. Thus, the Presidents suggest that the Regional Assemblies endeavour to encourage the exchange of public servants from their countries with those of candidate States.

b) Role of the Regional Legislative Assemblies in forming European public opinion regarding the future of the European Union.

The Presidents believe that enlargement of the European Union will only be crowned with success if it is supported by the citizens of Europe. Consequently, the people need to be fully informed of the challenges and the opportunities this represents and be made to understand that the political and economic benefits both supersede and attenuate the possible risks.

They invite the regional parliaments to assume a more active role in the process of informing the European public. Regional parliaments possess a wealth of experience in involving their citizens in decision-making processes and in applying the principle of subsidiarity, one that must be given due importance in the context of all discussions as to the future of the European Union. As the debate as to the future structure of the European Union has to address the interests and concerns of the citizens of Europe, it is up to the regional parliaments to ensure that their citizens make themselves heard during the discussions that are about to begin. Hence, they will fulfil their role as privileged mediators so as to achieve as wide a consensus in favour of the enlargement as possible.