



REGIONAL LOBBYING AND THE EU CONSTITUTIONAL TREATY: AN ASSESSMENT

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"The Europe of regions"... This expression, popularised by Denis de Rougemont in the 1960's¹, led to a large number of studies and debates on the evolution of European integration. Sociologists, political scientists and geographers have been trying to evaluate the empirical reality of the 'Europe of regions' for several decades (Carter and Pasquier 2006). Many regional and local players have considered European integration as a new political opportunity structure in which they could achieve their cultural, political and/or economic goals. For their part, European institutions, and particularly the European Commission, have, since the 1980's, considered regional and local authorities as their 'natural allies', faced with the reluctance of certain Member-States to give up a share of their sovereignty (Tömmel 1998). Thus, each turning point in the process of European integration, from the "Act unique" to the Maastricht and Amsterdam Treaties, has been characterized by the mobilization of local and regional authorities structured into pan-European organizations (Jeffery 1997, Loughlin 2005, Pasquier 2004). In this perspective, we can consider here the 'Europe of regions' as a cognitive frame of mobilization for regional and local players in Europe.

¹ Denis de Rougemont, one of the twentieth century's key theorists of federalism, popularised the idea of the 'Europe of regions' as a new step in European federalism. The political and ideological context of the 1960's directly influenced his thought with the emergence of new regionalist and



In this respect, the European convention is a very interesting institutional point from which to observe mobilisations, conflicts and controversies around the regional issue in Europe (Bourne 2006). Following the Treaty of Nice in 2000, a new window of political opportunity opened for regional and local actors to empower the territorial dimension of the European Union (EU). This structure of political opportunity produced contradictory effects. On the one hand, the debates revealed the competition between the various organisations representing local and regional authorities to impose their differing visions of the EU, with some of them calling for the territorial diversity of Europe, and others defending a Europe of legislative regions, while on the other hand, the Convention process forced the representative organisations to gradually coordinate their strategies. Why? Because the fragmentation of local and regional interests and the development of isolated strategies actually marginalized the regional fact in the first months of the Convention. However, the internal rules of the Convention gradually forced local and regional organisations to structure a broader coalition through a “*platform of the organizations representative of local and regional authorities*”. Using a wealth of legal expertise and efficient key political intermediaries, this platform managed to give the draft constitutional Treaty a clear territorial slant.

The constituent moment between expectation and disillusion

At the turn of the twenty-first century, a new window of political opportunity opened up for regional and local actors to empower the territorial dimension of the European Union (EU). This was linked to the convergence of the dynamics of some policy entrepreneurs and the agenda setting of the constitutional question at the EU level (Kingdom 1984). At the end of 2000, the European Commission launched the “White paper on European governance” and set in motion various

nationalist movements in Western Europe and the beginning of the European regional policy



working groups in which regional and local organisations have been very active². The “White paper” proposed a set of recommendations to empower democracy in the EU and notably pointed to “a more systematic dialogue with European and national associations of local and regional authorities”³. From 2000-01, the regional and local organizations made a clear link between the drafting of the “White paper” and the constitutional process (European Commission 2001). Moreover, after Nice, the German *Länder* put pressure on the federal government to clarify the distribution of competences between the EU, the member States and the regions (Bauer 2006). During the second half of 2001, the Belgian presidency of the EU, which was interested in and sensitive to the regional question, managed to include the issue in the Laeken declaration setting the mandate for the future European Convention. However, although the prospect of a “European constitution” and the potential integration therein of a regional dimension strongly mobilised the regional and local organisations, it also highlighted the diversity they represented. Two main cleavages appeared. The first, which dates back to the 1970's and 1980's, brings together those who defend the territorial diversity of Europe against the vision of a Europe of regions. It is coupled with a second cleavage, which emerged at the end of the 1990's, and is characterized by the specific role that legislative regions want to play in the constitutional process.

(Saint-Ouen 2003).

² Twelve working groups took part in drawing up the "White Paper". Two of them strongly mobilised the organisations representing territorial interests: the IIIB group on the “Definition of criteria and conditions of decentralisation at regional and national levels”; and the IVc group on “The articulation between diverse levels of government for social cohesion and sustainable development”.

³ “(...) The Commission's 2001 White Paper on European Governance points out that the EU's legitimacy "today depends on involvement and participation. This means that the linear model of dispensing policies from above must be replaced by a virtuous circle, based on feedback, networks and involvement from policy creation to implementation at all levels. This reference to "all levels" includes, of course, the four levels - European, national, regional and local. All play an essential role in governance and government in Europe”, CEMR position on the European Convention, 16/08/02, http://www.ccre.org/prises_de_positions.

Composition of the “platform of local and regional organisations” during the European Convention

Organisations	Objectives
Council of European Municipalities and Regions (CEMR)	Founded in 1951, the CEMR represents around 100,000 local and regional authorities. The CEMR defends the territorial diversity of Europe.
Conference of Peripheral Maritime Regions (CPMR)	Founded in 1973, the CPMR brings together more than 150 maritime regions. The CPMR pushes for EU policies to promote balanced territorial development.
Assembly of European regions (AER)	Founded in 1985, the AER brings together 250 regions from 30 countries. The AER wants to empower the political role of the regions in Europe.
Association of European Border Regions (AEBR)	Founded in 1971, the AEBR brings together 80 border regions. The AEBR acts for the benefit of all European border and cross-border regions
Conference of Chairmen of the Legislative State Parliaments of Europe (CALRE)	Created in 1997 in Oviedo, the CALRE brings together 64 chairmen of legislative State parliaments of Europe.
Conference of European regions with Legislative Power (REGLEG)	Founded in 2000, REGLEG is an informal venture of 52 regions with legislative power in the EU. The aim of REGLEG is to strive for an enhanced role of those regions in the EU



Network of Major European Cities (EUROCITIES)	Founded in 1986, EUROCITIES brings together the local governments of more than 120 large cities in over 30 European countries.
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Cleavages in heritage

What have local and regional authorities tried to promote in this conventional process? It is useful to distinguish between two main categories of contributors to the debates at the Convention. Firstly, we have EU institutions, particularly the Committee of the Regions, but also the European Commission and Parliament. Secondly we have the organisations that represent local and regional authorities. These two categories of contributors share a number of common objectives: (1) the empowerment of the Committee of Regions to give it a real role as a guardian of the principle of subsidiarity; (2) the constitutional recognition of sub-national authorities by integrating the European Charter of local self-government⁴ into the Treaties; and finally (3) the broader development of regional and local democracy as a key factor for democracy in the EU.

However, in addition to these consensual elements, each institution and organisation also tried to achieve specific objectives and defend its own particular interests. For example, The Committee of the Regions tried to use the Convention to empower its position in the EU political system. It claimed new political rights - the right to refer issues to the European Court of Justice to defend the principle of subsidiarity, the right to a suspensive veto for some aspects of its obligatory functions, the right to address oral and written questions to the Commission, and finally the right to take part in joint decision-making in

⁴ The Council of Europe adopted the European Charter of local self-government on 15 October 1985.



certain specific sectors. If we now consider the organisations representing local and regional authorities, clear divides appear, the origins of which lie in the history of regional and local mobilisations. The first cleavage sets the vision of the territorial diversity of Europe, as defended by the Council of European Municipalities and Regions (CEMR), against the vision of a Europe of Regions, mainly promoted by the Conference of Peripheral Maritime Regions (CPMR) and the Assembly of European regions (AER). Until the 1970s, the CEMR was the main organisation representing local and regional authorities, notably developing twinning links between European Cities (Vion 2000). However, from the 1960s to the 1980s, the European Commission gradually developed the European regional policy financed by the structural funds. This new situation gave various regional players and institutions the incentive to establish new political relations in order to build new economic strategies (Pasquier 2004). European regions became new levels in the implementation of European policies. This produced two phenomena: the creation of new representative organisations and the Commission's gradual acknowledgement of the regions as official intermediaries. During the 1970s and the 1980s, several new European organisations representing local and regional authorities emerged. In April 1973, the Conference of Peripheral Maritime Regions (CPMR) was created in Saint-Malo, initiated by the “*Comité d'Etudes et de Liaison des Intérêts Bretons (CELIB)*”. The 23 founding regions called for the implementation of 'A European regional policy to balance territorial inequalities in Europe' (Pasquier 2003). The creation of this new organisation generated competition with the CEMR for regional representation at the European level. The opposition culminated in the creation of the Assembly of European Regions (AER), initiated by the CEMR⁵. Difficult negotiations started between the AER, the CEMR and the European Commission to institutionalise regional representation at the European level. In December 1987, an agreement was finally reached to create a Consultative Council of local

⁵ Until 1985, the CEMR was “only” the Council of European Municipalities. After the creation of



and regional authorities consisting of two sections, one representing the regions, the other the local authorities. This division was the AER's main claim, aimed at preventing the regional fact from being watered down into local interests. The conflict between regional and local interests occurred again with the creation of the Committee of Regions (Pierret 1997).

These competing visions of the territorial structuring of Europe were very apparent during the debates preceding the Convention. The CEMR, the AER and the CPMR may have shared a number of common objectives, but the traditional divides remained quite clear. The CERM proposed that the draft Treaty should ensure the respect of local freedom and regional identities through a reference to the European Charter on local autonomy⁶. The CPMR considered that the old debate of a Europe of States versus a Europe of regions was outdated and should that instead, the debate should highlight three priorities: a clearer definition of the distribution of competences between European, national and regional levels; the involvement of the regions in the drawing up of national positions in European policy-making; and the involvement of the regions in the process of European consultation and the implementation of European policies with a territorial impact. The AER took up a more radical position, considering that it was the organisation representing regional interests in Europe. Among other things, the AER called for the recognition of the regions as the third level of government in Europe, a clearer definition of the competence of each level, and the direct possibility for the regions to refer to the European Court of Justice⁷.

This first cleavage was joined by a second inherited from the late 1990s. During this period, different legislative regions were growing tired of their weak

the AER, it become the CEMR.

⁶ CEMR position on European Convention, 16/08/02, http://www.ccre.org/prises_de_positions.

⁷ Assembly of European Regions, "Meeting with President Valéry Giscard d'Estaing, President of the European Convention: Contribution by the Assembly of European Region", Valencia, 7 March 2002.



influence within European representative organisations and EU institutions, and so decided to coordinate their actions. This new European regional representation took the form of two main organisations: the Conference of Chairmen of the Legislative State Parliaments of Europe (CALRE) created in 1997 and the Conference of European Regions with Legislative Power (REG LEG) founded in 2000. The first Conference of European regions with Legislative Power took place in November 2000, initiated by the Generalitat de Catalonia and the Congress of local and regional powers of the Council of Europe⁸. From the end of the 1990s, the powerful European regions began to lose interest in the Committee of Regions, which they felt threatened to dilute their political characteristics. One year later, in June 2001 in Liege, 52 presidents of European legislative regions created REG LEG. Sustained by the most powerful European regions⁹ REG LEG quickly emerged as a major territorial lobby. In one of its first declarations in November 2001, REG LEG questioned the national composition of the European Convention: “(...) the composition of the national delegations at the Convention, limited to one government representative and two national parliaments’ representatives, is unsatisfactory and they reiterate their request for direct representation of the Regions with legislative power”¹⁰. REG LEG also developed a critical analysis of the process of European unification pointing to: (1) the “weakening of the role of the federal and central government and, in reaction to this, a temptation for it to recover its centralising power, which would inevitably have repercussions for the responsibilities of regions with legislative power” (2) the more technocratic decision-making machinery, remote from citizens, creating a deficit of the democratic control; (3) the tendency to ignore each state’s internal distribution of responsibilities, which may lead to decisions

⁸ And notably the chamber of regions of the Congress where the legislative regions are well represented.

⁹ The population and GDP of certain member regions of REGLEG - for example Bavaria, Lombardy, Scotland and Flanders - are higher than some Member States of the EU

¹⁰ [Resolution of the Second Conference of Presidents of Regions with Legislative Power. Liege, 15 November 2001](#)



being made which encroach on regions' legislative responsibilities¹¹. In this perspective, REG LEG called for the broader involvement of legislative regions in European policy-making, the implementation of mechanisms to protect regional competences, the possibility for the legislative regions to refer issues directly to the European Court of Justice, and finally the reform of the Committee of the Regions¹².

An inaudible message

Weakened by this double cleavage, the organisations representing local and regional authorities tackled the Convention in a disorganised manner. During the first weeks of the Convention, they displayed isolated strategies of influence. This fragmentation of players and strategies, compounded by the fact that the negotiating framework within the Convention gave a dominant role to representatives of the EU's member states and institutions, weakened their claims until October-November 2002.

At the beginning of the twenty-first century, the regional issue was no longer a priority on the European agenda. It was not really discussed during the Treaty of Nice and, although Joscha Fisher argued for a federal Europe in his famous speech¹³, he only focused on the relations between EU institutions and

¹¹ [Final Declaration of the First Conference of Presidents of Regions with Legislative Power. Barcelona, 24 November 2000](#)

¹² "We also support the claims made by the Committee of the Regions in its resolution on the Intergovernmental Conference on institutional reforms of the European Union, especially the elevation of the Committee of the Regions to be a fully fledged institution of the European Union, the obligation for its members to hold an elective office and the introduction of a right of appeal for the Committee of Regions to the Court of Justice of the European Communities in the event of a failure to respect its prerogatives. We also very much hope that a specific institutional status within the Committee of the Regions, one distinct from that of local authorities, will be granted to regions with legislative power". [Final Declaration of the First Conference of Presidents of Regions with Legislative Power. Barcelona, 24 November 2000](#)

¹³ J. Fischer, "From Confederacy to Federation – Thoughts on the finality of European integration", Speech at Berlin's Humboldt University, May 2000: http://www.auswaertiges-amt.de/www/en/eu_politik.



Member-States. This relative marginalization of the regional issue is also a result of the return of the States to the centre of the European game, as can be seen in the negotiations of various Treaties since the early 1990s and the prospect of the Eastern enlargement of the Union. This new context has largely excluded the regions, including the powerful German *Länder* (Loughlin 2005), from the centre of policy-making. Although the White paper on governance and the Laeken declaration refer to the local and regional authorities as partners in the constitutional process, the first debates in the Convention concentrated almost entirely on the EU institutions and national institutions.

As a result, the first phase of the Convention, known as the “listening phase”, was very disappointing for the organisations representing local and regional authorities. During this phase, the Convention considered local and regional authorities simply as civil society players. The first time the organisations were heard was with the representatives of civil society on 24 and 25 June 2002. They felt that this hearing was completely out of step with the reality of their specific political roles as acknowledged by the European Commission in the White paper on European governance. The disappointment grew still further when the Convention decided to look at the question of the principle of subsidiarity by creating a specific working group. Here again, the main debates revolved around the relations between EU institutions and national governments, with little serious mention of the principle of subsidiarity applied to sub-national authorities. The final report of this working group only argued in favour of the possibility for the Committee of Regions to refer issues to the Court of Justice in the event of infringement of the principle of subsidiarity. On the other hand, a majority of the group considered that the “involvement of regional authorities in the drafting of Community legislation should be determined solely in the national framework (...). Any other approach would, moreover, risk affecting the equilibrium established between the Member States at European level. For this reasons the group did not accept the proposal to grant a right of appeal to the



Court of Justice for violation of the principle of subsidiarity to regions which, within the framework of national institutional organization, have legislative capacities”¹⁴.

The internal organisation of the Convention, mainly consisting of national institutional delegations, and the dispersion of the strategies of the local and regional authorities, largely contributed to the weakening of the regional question during the first weeks of the Convention. It was further weakened by the fact that the six representatives of the Committee of the Regions were only invited to attend the Convention as observers, despite desperate efforts to obtain full membership status. The publication of the preliminary draft constitutional Treaty on 28 October 2002 confirmed the marginalization of local and regional interests, which are dissolved inside vague concepts surrounding the necessary participation of all public players in the EU system¹⁵.

The invention of an improbable territorial consensus

To address the problem of this marginalization, the organisations representing local and regional authorities were forced to improve the coordination of their strategies. The Convention process in effect forced them to reach an improbable territorial consensus. They set up a platform of organizations to define common objectives and develop a broad strategy of influence.

Be united to avoid disappearing altogether

¹⁴ Conclusions of Working Group I on the Principle of Subsidiarity, CONV 286/02, p. 8.

¹⁵ CPMR, *Reactions to the preliminary draft constitutional Treaty*, technical note of the General secretariat, October 2002.



The threat of disappearance into the “rag-bag” category of civil society sent shock waves through the local and regional authorities. For example, the CEMR, well known for its moderate position, declared in August 2002: “The Convention has at this stage seen local and regional government as falling under the ‘Umbrella’ of civil society. We wish to emphasize that our spheres of government are, by definition governmental, and not non-governmental. For the future, therefore, we urge the Convention to treat local and regional government as conceptually separate from civil society”¹⁶. Initiated by the CPMR, a “platform of representative organisations of local and regional authorities” emerged, bringing together the CEMR, the AER, the EUROCITIES, the AEBR, the CALRE and – with some reluctance - REG LEG. The CPMR coordinated the platform, whose objective was to define and defend key priorities during the final phase of the Convention: “We have created the platform to empower our political influence, to build a common regional front. At the beginning of the Convention, each organization worked for itself, defending different positions. The platform changed that”¹⁷. The platform especially used the “Contact Group on Regions and Local authorities” to extend its influence over the convention process. This group was composed not only of European organisations representing regional and local authorities but also of representatives from the Committee of the Regions, the Congress of Local and Regional authorities of Europe and from individual regions and towns themselves. This group has been successively chaired by Ana Palacio, Spanish foreign minister and Jean-Luc Dehaene Vice-Chairman of the Convention, former President of the European Commission and former Prime Minister of Belgium. Coming from two federalized or almost-federalized States, both of these political leaders have been much involved in the building of the acceptable compromise between European regional organisations and the Convention members. Jean Luc Dehane obliged REG LEG, among others, to join the platform: “He said we cannot have two contributions. If we are to get

¹⁶ CEMR, *Convention on the Future of Europe*,



anywhere, we need a single contribution, we need a compromise”¹⁸. REG LEG finally joined the platform in January 2003 with a view to the plenary session dedicated to the regional and local dimension of the EU, on 7 February 2003: “We have fought hard for the specific cases of the Legislative regions to be treated at the State level and not the EU level. At the European level, what was needed was acknowledgement of the regional issue, but the details were a matter for the Member-States”¹⁹. On 30 January 2003, the platform formalised a compromise supported by Jean-Luc Dehaene at the Convention Presidium. The platform proposed the introduction of the regional dimension into the first part of the draft Treaty and the strengthening of the cohesion policy in the second one. Concerning the first part, the platform proposed the following wording:

- “reference to respecting national, regional and local identities; this will allow each Member State, in accordance with its own rules, to involve the regional and local tiers in the life of the Union.
- (2) recognition of a European democracy that is exercised through all levels of democratically elected representation, i.e. European, national, regional and local.
- (3) institutionalising the principles of consultation of the national, regional and local authorities, in compliance with the constitutional systems of the States, ‘upstream’ of the law-making process in respect of legislative proposals with a high territorial impact, and ‘downstream’ in respect of the implementation of these proposals.
- (4) the inclusion of territorial cohesion as one of the objectives of the Union, as a corollary to economic and social cohesion.
- (5) recognition of the role played by the common policies in ensuring the internal cohesion of the Union, especially the cohesion policy; this will

¹⁷ Interview, European Commission, Brussels, 31 May 2005.

¹⁸ Interview, CPMR, 10 May 2005.

¹⁹ Interview, European Commission, Brussels, 31 May 2005.

allow us to press ahead with the implementation of dynamic and innovative instruments such as tripartite contracts and frameworks for trans-European cooperation

- (6) A stepping up of the role of the Committee of the Regions, by granting it the right to refer matters before the Court for infringement of the principle of subsidiarity²⁰.

The platform also arranged formal and informal meetings with the President of the Convention and representatives of the European Commission. It also enabled information to be centralised, and actions to be coordinated with the Committee of the Regions.

Towards political influence

The building of the platform was the first step towards any real political influence for the European organisation of local and regional authorities during the convention. Two other resources were crucial: legal expertise and the mobilization of political allies inside the Convention.

The more the convention process progressed, the more legal expertise became a decisive resource. Legal expertise was a means of giving concrete form to the platform's objectives. The European organisations representing local and regional authorities may all have been able to produce general declarations for the members of the European convention, but very few of them had the legal expertise required to give daily notes and documents to the members of Convention to help them defend the platform's proposals, or even to propose clear amendments to the articles of the draft Treaty. In this aspect, the CPMR imposed itself as the leading organisation through its capacity to use this type of expertise. For example, during the first part of the Convention process, the



Contact Group chaired by Ana Palacio asked the CPRM to produce a report explaining regional claims and what made them specific in comparison with civil society. Consequently, the CPMR conducted a survey among its 146 members regions and produced a detailed report formulating a series of proposals on the role of the regions in the EU's institutional system²¹. Similarly, the CPMR coordinated the platform through a team of lawyers specializing in European law. This team aimed to express the platform's political objectives in legal language: “We especially stressed part 1 of the Treaty (...) We endeavoured to defend consistency between the big principles and policies, notably the regional policy”²². This aspect of lobbying was very important; after the plenary session on the local and regional dimension of the EU, providing the members of the convention with arguments, alternative proposals and amendments was a key move, because they very often did not have the time or the skills to do this task themselves: “We had to be very reactive, to write texts and amendments overnight (...). One day, Barnier asked us to do it for him for territorial cohesion, and two hours later he got it”²³

However, this legal expertise would have been ineffective without key political allies. As we have underlined above, Ana Palacio and Jean-Dehaene, who chaired the "Regions and local authorities" Contact Group, provided crucial political support for the European organisations. Representatives of the European Parliament and Commission also supported the platform's positions through contributions and reports²⁴. Michel Barnier, Commissioner on cohesion policy, supported by representatives of certain national governments (Peter Hain

²⁰ Contribution by Claudio Martini , observer at the convention, “Including the local and regional dimensions in the both parts of the Treaty”, Brussels, 17 February 2003.

²¹ CPMR, *Tasks, policies and competences of the European Union: what the peripheral maritime regions expect from Europe*, May 2002.

²² Interview, European Commission, Brussels, 31May 2005.

²³ Interview, European Commission, Brussels, 31May 2005.



for the United-Kingdom and Pascal Andréani for France), made a huge contribution to the inclusion of territorial cohesion as one of the EU's major objectives. Representatives of national parliaments – like Neil MacCormick of the *Scottish National Party* also spoke out strongly in favour of the recognition of the local and regional dimension in the draft Treaty, in the name of greater democratic legitimacy for the Union (Ares 2005). Even if the Committee of the Regions has been criticized for its weakness by a number of European organisations, this institution played an important intermediary role between the platform and the Convention. Its six observers were very involved in the platform and in the Contact Group, particularly Claudio Martini, President of Tuscany and President of the CPMR. This intermediary role enabled the Committee to reinforce its institutional role in the EU system. The initial criticisms gradually changed into calls for its political capacity to be consolidated and for it to become the guardian of the principle of subsidiarity. Finally, the picture of all channels of influence would be incomplete if we did not mention the secretariat of the Convention, as this institution was responsible for drawing up the different draft versions (Deloge-Gaudez 2004). In this respect, Elisabeth Gateau, ex-General secretary of the CEMR and consultant for local and regional issues at the convention supported the platform's claims during the different versions of the draft Treaty. Last but not least, it was Valéry Giscard d'Estaing, who chaired the CEMR from 1997 to 2002 who asked her to join him and take priority care of the regional and local theme in the treaty.

Constitutionalising a European polycentric governance

On 7 February 2003, the plenary session of the Convention dedicated to the local and regional dimension of the Union, illustrated the contradictory points

²⁴ See particularly Giorgio Napolitano's report on "The role of local and regional actors in the Union" adopted by the European Parliament on 17 January 2003 and the communication by the European Commission on the institutional architecture on 4 December 2002.



of view about the role played by the local and regional authorities in the EU²⁵. Although several members of the Convention had declared their opposition to radical claims from organisations like REG LEG, such as the right for legislative regions to refer matters to the Court in the event of infringement of the principle of subsidiarity, the Chairman of the session, Jean-Luc Dehaene, managed to establish a consensus on the need for the future Treaty to recognise the role of sub-national authorities in the implementation of the principle of subsidiarity and also the need to reinforce the role of the Committee of the Regions.

An analysis of the final Treaty shows that never before has a European Treaty given such importance to the regional and local dimension of the Union (Burrows, Carter and Scott 2004). Firstly, article I-5, states that the EU must respect the national identities of the Member States “inclusive of local and regional self-government”. This point gives satisfaction to the main claim made by legislative regions, especially the German *Länder*, whose competences have been seriously affected by the extension of EU legislation. This explicit recognition of local and regional authorities in Europe could have legal consequences if European legislation were to threaten local and regional autonomy. The draft Treaty also extends the principle of subsidiarity to local and regional authorities. Under Article I-11 of the Treaty, the subsidiarity principle now requires the EU not to act if the objectives can be better achieved by the Member State “either at central or at a regional and local level”. In addition, Article I-46 (on the principle of representative democracy) states that “decisions shall be taken openly as closely as possible to the citizen”, which adds force to the importance of the local dimension of subsidiarity. More specifically, the Constitution also includes a Protocol on the application of the principles of subsidiarity and proportionality. Under the protocol, the European Commission must consult widely before European legislation, and these consultations, must, where

²⁵ Summary report on the plenary session: 6-7 February, CONV 548/03.



relevant, take into account the regional and local dimension of the proposed action. The Constitution also gives the Committee of the Regions the right, for the first time, to refer issues to the European Court of Justice. This right is given where the Committee considers there is a breach of the subsidiarity principle, and also where its legal rights have been breached. This gives local and regional government some “teeth” to ensure that the subsidiarity principle is complied with. And finally, the Constitution’s new objectives in article I-3, now include the promotion of economic, social and territorial cohesion. Local and regional authorities are by definition “territorial” actors, and the new emphasis will often require the EU to look more closely at the regional impact of its policies.

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So, it seems that an “invisible hand” permitted the empowerment of the local and regional dimension of the EU during the conventional process. In the early stages, this process revealed the cleavages and the competition that existed between the various European organisations representing local and regional authorities, who all sought to impose their singular vision of the Union. If we add the domination of national level representatives and EU institutions in this Convention, it can be seen that the influence of the representative organisations was very narrow. However, faced with the risk of dissolving into the muddle of civil society, the representative organisations were forced to coordinate their strategies by means of a European platform, which facilitated the mobilization of legal and political resources and led to the building of a territorial consensus and real political influence.

Zaragoza, 5 de octubre de 2006.



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