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WORKING DOCUMENT
of the Commission for Territorial Cohesion Policy
on
TERRITORIAL COHESION

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This document will be discussed at the meeting of the **Commission for Territorial Cohesion Policy** to be held from **11 a.m. to 5 p.m. on 17 October 2008**.

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Reference document

1. Introduction

This working document is designed to prepare the CoR's response to the Green Paper adopted by the Commission on 6 October 2008¹ concerning the new provisions contained in Article 3 of the Treaty on European Union (TEU), and Article 174 of the Treaty on the functioning of the European Union (TFEU) where **territorial cohesion** has been added to the previous references to economic and social cohesion².

- Article 3 TEU states that the EU "shall promote economic, social and territorial cohesion, and solidarity among Member States";
- Article 174 of the TFEU states that: "In order to promote its overall harmonious development, the Union shall develop and pursue its actions leading to the strengthening of its economic, social and territorial cohesion. In particular, the Union shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions (*or islands*) (*including rural areas*)."³ It also provides a breakdown of sensitive areas that require particular attention: "Among the regions concerned, particular attention shall be paid to rural areas, areas affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density and island, cross-border and mountain regions."⁴

2. Background

The cohesion reports and studies carried out at the instigation of DG REGIO and the European Spatial Planning Observatory Network (ESPON) have confirmed the long-standing concerns of local and regional authorities about the existence of a large number of territorial disparities and the shortcomings of policies established at various levels of government which prevent them from being tackled effectively.

These concerns are reflected in past opinions of the CoR³, the European Parliament⁴, statements by CoR representatives at the convention and the resolutions and working documents of associations of local and regional authorities, including AER⁵, CEMR and the CPMR⁶.

1 Green paper on territorial cohesion: *turning territorial diversity into strength*

2 The new elements are underlined, those that have been abrogated are italicised.

3 Opinion on territorial cohesion (CdR 388/2002, rapporteur : Valcarcel Siso (EPP/ES)) – opinion on the fourth economic and social cohesion report (CdR 97/2007, rapporteur: Michael Schneider (EPP/DE))

4 Report on the role of territorial cohesion in regional development (rapporteur: Ambroise Guellec – 2004/2256(INI) -25 July 2005) and report on the Territorial Agenda and the Leipzig Charter (rapporteur : Gisela Kallenbach – 2007/2190(INI) – 31 January 2008)

5 In 1993, in the run-up to the Amsterdam intergovernmental conference, Robert Savy, president of the Limousin regional council, assumed responsibility for a working group responsible for examining the impact of Community policies on regions. The responses of almost 130 regions to a questionnaire were the subject of a report titled Regions and territories in Europe, which the AER approved in a resolution adopted unanimously at its general assembly in Antwerp in 1995.

6 Technical note of the CPMR secretariat-general, May 2008

At the same time, the work carried out in Member States on the *Territorial Agenda* and the conclusions of informal meetings of ministers responsible for regional policy and spatial planning underline the crucial role to be played by territorial cohesion in promoting sustainable development and tackling climate change and the need for regional policy to take account of the EU's territorial diversity. The Leipzig Charter on sustainable urban development also takes account of these issues.

3. **The Commission's analysis**

In its Green Paper, the Commission underlines the need to make better use of the possibilities offered by Europe's diversity by increasing cooperation between stakeholders and the various levels of government. It does not provide a definition of territorial cohesion nor does it want other Community policies to take it into consideration as a matter of priority.

In order to ensure polycentric development and greater territorial balance, it calls for efforts to tackle both the additional costs of the growth of cities and depopulation of rural zones and the most landlocked regions. The Commission also looks at whether measures that are more geared towards specific types of region, such as mountains, islands and areas with low population density, would be appropriate, and provides a classification in the working document annexed to the Green Paper.

In the questions for discussion, the Commission proposes that territorial cohesion should play a role that complements economic and social cohesion. It considers the potential role of the Community and the geographical level relevant to possible action. It also seeks to gather views on how to improve cooperation between territorial stakeholders and strengthen coordination.

The CoR believes that, in connection with the concern for solidarity and equality already present in the Treaty, taking into account the territorial dimension must entail an effort to promote "territorial coherence" between the various strategies successively put forward by the Commission, since they are applied in the same area.

- The Lisbon process, because its impact is likely to vary widely, which must be taken into account in the framework of the new cycle launched with the conclusions of the European Council of 13 and 14 March 2008;
- The economic and social cohesion policy, by assessing the territorial consequences of earmarking carried out for the 2007-2013 programming period and any contradictions that might appear between competitiveness and balanced territorial development, which will have to be remedied when preparing the next programming period;
- The European sustainable development strategy, because it entails certain constraints but also new opportunities and introduces the notion of anticipating change, consistent with the additional territorial challenges to be included in the review scheduled for 2011.

The CoR believes that the EU, Member States and local and regional authorities should work together to implement public policies that guarantee this territorial coherence with a view to ensuring the

polycentric development of the EU and its social, economic, environmental and cultural sustainability. The aim is to give citizens equal opportunities based on regional potential and local conditions, while taking into account the EU's territorial diversity.

4. Possible approaches for the Committee of the Regions

In its previous opinions, the CoR (as well as the EP), considered that meeting the objective of territorial cohesion should entail a tangible Community added value. It is therefore proposed to focus the CoR's assessment specifically on strengthening or improving Community policies, particularly in the following four areas where the CoR's opinions have identified territorial factors:

- The Community structural policy and its regional policy in particular;
- The other common policies, such as agriculture and transport, and other Community policies, such as the environment;
- Services of general economic interest (SGEI) where the ongoing policy of liberalisation is calling into question the pricing and equalisation systems established in connection with national borders;
- Territorial governance where synergy between the various levels of government must be developed since they operate in the same area.

4.1 *The Community structural policy*

The Green Paper stresses the importance of geographical factors not taken into account by current policies. These must be highlighted using new indicators at the relevant geographical level. Furthermore, territorial cohesion specifically concerns objective 3 of territorial cooperation.

4.1.1 *An reorientation of strategic approaches*

Territorial cohesion does not simply complement economic and social cohesion. It involves both reorganising the way in which the structural policy currently functions and coordinating it more closely with other common policies.

While cohesion reports have stressed progress towards convergence between Member States and regional groups, they have also highlighted the persistence of significant disparities within regions. There is therefore a need to maintain a structural policy that is targeted at all EU regions and takes into account a fairly broad range of disparities, especially those having a territorial basis.

4.1.2 *New indicators?*

Since it was launched, the structural policy has placed special emphasis on socio-economic eligibility indicators (mainly GDP per head and unemployment), but already uses several territorial indicators: location in a border region, low population density (maximum of 8 inhabitants/km² for the Arctic zones of Sweden and Finland) and location in an outermost region (according to Article 349 of TFEU (ex Article 299 TEC)).

Should the following be used in measures to promote territorial cohesion?

- Territorial indicators categorising other types of region, such as those cited in the new version of Article 174 TFEU (ex Article 158 TEC) relating to rural areas.
- Indicators applying to all regions: disposable income (in order to take account of transfers, which GDP per capita does not do), accessibility of different services (transport, energy supplies, health, education), human development indices⁷?
- Fiscal capacity indicators, on account of the major inequalities between local and regional authorities and within NUTS2 units.

4.1.3 More relevant geographical frameworks?

The new wording of Article 158 makes implicit reference to sub-regional units (NUTS3, possibly NUTS4, although this level is currently used very rarely), which would better reflect territorial disparities, especially within regions. These might be identified by EUROSTAT, DG REGIO and EPSON when examining their operational capacity so as not to revert to complex divisions, as observed with the zones eligible under objective 2 prior to 2007.

On the basis of the Commission working document, it is proposed that the CoR take up the most relevant proposals.

4.1.4 Development of objective No 3

The Commission believes that territorial cohesion must have a significant impact on the way in which this objective is organised in future. Since local and regional authorities are particularly involved in this process, the CoR is expected to address the following issues:

- Development of the cross-border aspect, for example with a shared allocation on both sides of the border;
- Strengthening cross-border cooperation (formerly INTERREG III-B), which was significantly scaled back in the budget decisions for the 2007-2013 period⁸, with more relevant geographical frameworks (such as sea and river basins), and extending the scope of cooperation, possibly with increased participation by national authorities;
- Simplifying management of interregional cooperation.

⁷ Following the methodology established by UNDP

⁸ EUR 1 581m 2004 instead of the 6 300 proposed by the Commission, i.e. a reduction of 75%

4.2 *Taking into account the territorial impact of common policies*

Since it was set up, the regional policy has helped regions or areas adversely affected by certain Community policies: the Davignon plan in the steel industry and the impact on the Community's regions of the enlargement of the EC to ten Member States justified regional adjustment and modernisation programmes. Each of the CAP reforms has led to support measures under the structural policy. There has therefore been a link since the late 1970s between development of Community policies and their potentially negative impact on economic and social cohesion.

Rather than correct the distortions born out of the inadequate application of common policies that are too independent, the objective of territorial cohesion should be relevant to all Community policies having a territorial impact. There are analogies here with the horizontal social clause introduced by the Lisbon Treaty. By applying the recommendations on the importance of ex ante evaluation to the Commission, any legislative proposal likely to have a territorial impact should, from the moment it is conceived, be subject to an impact analysis, following a methodology to be determined.

In the common sectoral policies, this would be a question of ensuring, among other things, that:

- The CAP, which has a high territorial impact, contributes more to territorial cohesion by developing basic rural services and boosting economic appeal. In this connection, it is proposed to deal with the territorial impact of abolishing milk quotas (the end of protection or reducing aid geared more towards regions where agricultural activity is not very profitable) and to provide for measures to adapt disadvantaged areas, particularly mountainous regions. Furthermore, rural development measures (2nd pillar) should be better coordinated with regional policy, given the comparable size of the amounts committed to rural areas by the ERDF (EUR 70 billion) and EAFRD (EUR 88.3 billion) for the 2007-2013 period;
- The common policy for transport and particularly trans-European networks, the impact of which on the regions they cross is not always positive, is supplemented by minimum European requirements to ensure a balanced service for regions, defined on the basis of a composite accessibility indicator and quantified objectives for local connections to these networks⁹;
- Environmental protection is better coordinated with the above-mentioned policies, for example by systematically assessing the territorial impact, in addition to the environmental impact study, which should facilitate the task of local and regional authorities.

4.3 *Ensuring that territorial impact is taken into account in the development of services of general interest (SGI) and services of general economic interest (SGEI)*

In the current debate on SGIs and SGEIs, the problem of territorial cohesion has been addressed from the following four points of view:

⁹ For example, a *short sea shipping* policy in addition to motorways of the sea.

- The degree of freedom of Member States and local and regional authorities, in accordance with the subsidiarity principle, so that they can meet their public service obligations;
- Maintaining universal access to these services, notably in regions with low population density, within the framework of traditional public service obligations, in the name of equal treatment and as a condition for the integration of regions into the global economy;
- Evaluation of the charges¹⁰ arising from current liberalisation, for the purposes of territorial cohesion and conditions for transferring these charges from users (who used to pay them within the framework of single price or tariff equalisation systems) to the taxpayer (required to finance the cost of compensation);
- Consistency with competition policy of aid paid to new operators to compensate for additional costs.

The new Article 14 of the TFEU (ex Article 16 of TEC) on SGEIs makes explicit reference to territorial cohesion by recognising the role of SGEIs "in promoting social and territorial cohesion." Territorial cohesion also appears to be alluded to in protocol No 9¹¹ on SGIs, which defines "shared values", citing the existence of "different geographical, social or cultural situations."

In 2005, following the publication of the White Paper on SGIs in 2004¹², the CoR deemed the legal basis of the treaties as they were at the time to be insufficient and called for a framework directive¹³ to improve the provisions in force, notably on the following points which concern territorial cohesion:

- Strengthening the legal basis in order to preserve local and regional authorities' freedom to act;
- Clear, transparent and precise evaluation of the cost of public service obligations, in the case of transfer of the cost of universal service from the user to the taxpayer (with an eye to liberalisation of postal services, for example).

The new version of article 14 TFEU explicitly provides for the possibility of adopting framework legislation on SGEIs: "*The European Parliament and Council, acting in accordance with the ordinary legislative procedure, shall establish these principles and set these conditions without prejudice to the competence of Member States, in compliance with the Treaties, to provide, to commission and to fund such services.*"

In its communication of November 2007¹⁴, the Commission recognised the need for "*wide discretion of national, regional and local authorities*" and came out in favour of achieving "*a high level of*

10 A methodology has been established by the Commission (COM(2002) 331, 18 June 2002

11 It has the same legal value as the treaty currently being ratified.

12 White Paper on services of general interest, COM(2004) 374 of 12 May 2004.

13 Opinion CdR 327/2004 of 23 February 2005 (rapporteur : Claudio Martini (PSE/IT))

14 COM(2007) 725, 20 November 2007.

quality, safety and affordability" of SGEIs. It indicated that "*Promoting access throughout the territory of the Union is essential for the promotion of territorial cohesion in the EU*".

However, it excluded the possibility of developing a framework directive, citing technical difficulties which prevent comprehensive legislation. As regards public service compensation (which comes under state aid control), following a decision by the Court of Justice (Altmark case¹⁵), the Commission established certain rules¹⁶, including a maximum of EUR 30 million for aid in the social housing and public hospital sectors for which notification is not required¹⁷.

Given the 2005 opinion and the new legal basis set out in Article 14 TFEU, the Committee of the Regions can only renew its request for a framework directive, defining the objectives of the contribution of SGEIs to territorial cohesion and the means to preserve it without any additional burden on national budgets.

Furthermore, should the CoR:

- Propose more flexible management of control of state aids in SGEIs, beyond the framework established in 2005?
- Look at the granting of Community aid (such as that awarded to outermost regions for the 2007-2013 period¹⁸) to support particularly landlocked regions adversely affected by SGEI liberalisation?

4.4 *Improving territorial governance*

Article 5(2) and (3) TEU provide a new definition of subsidiarity:

"2. Under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein. Competences not conferred upon the Union in the Treaties remain with the Member States.

3. Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level."

¹⁵ Case C-280/00, Altmark, {2003}, ECJI-7747.

¹⁶ [OJ L 312, 29.11.2005 pp. 67-73 and OJ C 297 of 29.11.2005, pp. 4-7.](#)

¹⁷ For its part, the CoR has looked at problems of services of general interest in recent opinions (rapporteur : Jean-Louis Destans (PES/FR) – CdR 181/2006), and in an opinion currently being adopted by the ECOS commission (single market, social vision and services of general interest, rapporteur : Volker Hoff (EPP/DE))

¹⁸ Specific compensation grant of EUR 35 per capita annually in 2004.

Under the structural policy, decentralisation measures and development of public-private partnerships have increased the number of territorial development stakeholders. This has led to certain difficulties in coordinating regional and territorial development operations.

In its 2001 White Paper on European governance, the Commission put forward some proposals on improving territorial governance and the European Parliament (Guellec report) called for their implementation. Following on from its previous opinion¹⁹, with due regard for preserving individual competences and freedom of action, the CoR could add:

- Clarification of competences in Member States between the different levels of government;
- Development of cross-cutting or horizontal policies (which is already the case with the regional policy) and coordination functions;
- Strengthening cooperation by defining common strategic objectives, for example on accessibility and sustainable development, with each of the participants contributing on the basis of his means.

5. Conclusions

This working document invites COTER members to respond to the following questions:

- What is the true added value that territorial cohesion is expected to provide?
- How can a territorially fair situation be defined?
- Could territorial cohesion be interpreted as equal access to basic services and infrastructure: health, education, postal services, but also public transport, energy, telecommunications, internet, etc?
- Is territorial cohesion also applied to policies carried out by Member States and local and regional authorities?
- Which regional disparities should we choose to deal with and which should we not?
- Which equalisation mechanisms should be used to reduce the disparities identified and to move towards a territorially fair situation?
- Which Community policies are most affected by this new objective?
- Could the Lisbon and Gothenburg strategies contribute to the realisation of territorial cohesion?
- How does the European level intend to take action on this matter?
- How can territorial cohesion improve governance and develop cooperation between the different levels of government?

¹⁹ CoR opinion 103/2001 (rapporteur: Michel Delebarre (FR/PES))