



the **Practitioner's** *page*

Llibert Cuatrecasas of Catalonia, an advocate for the regions in the new Europe

Llibert Cuatrecasas is Secretary-General for European Affairs in the Catalan government, and is based in Barcelona. In this capacity, he is the President of the Council of Europe's Congress of Local and Regional Authorities of Europe. He is also the Vice-President of the Congress' Chamber of Regions.

Mr. Cuatrecasas presided over the recent Conference of Presidents of Regions with Legislative Power, held in Barcelona in November 2000. Federations spoke with him about the role of regions with legislative power in the new Europe:

Federations: What is the Working Group of Regions with Legislative Power?

Cuatrecasas: It is a working group that was created by the Chamber of Regions of the Congress of Local and Regional Authorities of the Council of Europe. As the European region evolved, it became increasingly clear that the situation of regions with legislative authority was different, legally and politically. This distinct legal situation is seen most clearly perhaps in the case of the European Union.

How do the legal situations of the regions differ?

For regions without legislative authority, the European Union's decisions and directives are immediately binding on member states. The parliaments of these states have no authority to reject these directives because under the treaty of the European Union, its directives apply immediately.

These EU-level decisions apply immediately as well to those regions

without legislative authority. The national government makes the laws and then the regions enforce them according to their local powers.

The case of regions with legislative authority is different, especially if these regions have exclusive jurisdiction. In such cases the region, rather than the national government, makes the law to apply an EU decision.

This leads to *de facto* federalism. That is, this hierarchy of regulations affects the three levels: the EU, the nations, and the regions.

Once the working group was created, one of its first tasks was to find out, in the most institutional way possible, the perspective of the regions as a group. This was the reason for this conference.

Do you have some specific objectives for the future?

The Final Declaration of this conference identifies the objectives.

It asks the national governments of Europe to pay more attention to their regions that have legislative authority. It asks the national governments to let them participate fully in the life of the countries.

It also recognizes the diversity of situations. The situation in Germany, Austria or Belgium is not the same as in Italy or Spain.

The next meeting, in the second half of next year, will be held in the French-speaking part of Belgium, and in the meantime the working group can continue to talk about the issues.

Is the Council of Europe becoming irrelevant?

No. It was often said that once the European Union was created, the Council of Europe's work could be phased out. But since the end of a divided Europe and the fall of the Berlin Wall, things have changed substantially.

Today there are 15 countries in the European Union. The Council of Europe has 41 member states and in a few weeks will have 43, with the admission of Armenia and Azerbaijan.

Obviously, these member states of the Council of Europe must adopt all the provisions concerning human rights. But there are other important ones, like cross-border cooperation, the European Charter on Local Autonomy, the draft European Charter on Regional Autonomy approved by the Congress, which we hope will also be ratified.

I would say that the Council of Europe has prepared all these states to effectively implement the principle of subsidiarity, which is much clearer in the rules of the Council of Europe than in those of the European Union itself.

Right after the fall of the Berlin Wall, all the states of Central and Eastern Europe wanted to join the Council of Europe. But to do so, they had to adapt their own structures. Most of them saw fit to regionalize to some degree—like Poland, the Czech Republic and Slovakia, and we could mention several other countries in central and eastern Europe.

Basically, all this is applying the principles of the Council of Europe. All this intergovernmental cooperation, harmonizing legislation and structures,

is an essential precondition so that European Union can be achieved.

Why were the other states chosen to join this working group?

The other states with significant regionalization, like Italy and Spain, are of course aware that they must change some of their own structures to come closer to a clearly federal model.

This kind of federalism must recognize all the diversity that exists in Europe and that no European would want to give up.

Obviously, the system in Germany or Austria, which have highly developed federalism and allow for a variety of situations, is considered by other highly regionalized states as structures from which they can learn about their own unresolved issues.

How do you think globalization and the search for European unity affect how the administrative regions are perceived?

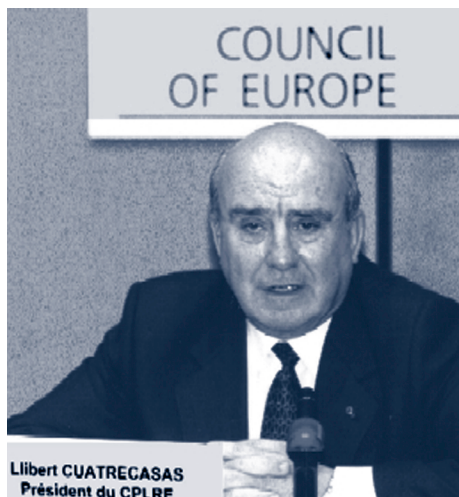
It is hard to answer this question now—this is a decisive moment for the European Community.

Much will depend on how this united Europe is actually built. The German foreign minister always talks about a constitution for Europe. Sooner or later, we will have to face this issue.

It is interesting that those who are most reluctant about the idea of a European constitution are sometimes Germans. Why?

From the Final Declaration of the Conference of Presidents of Regions with Legislative Power:

"We undertake to defend our regional cultural policy and the specific characteristics of some of our regional sectors, in fields such as agriculture, health and education, against the machinery of a global investment policy, in particular, and against any attempts to bring about harmonisation, standardisation, or even uniformity. In global negotiations, Europe must defend its own model, based on regional cultural diversity. However, being aware of the danger of withdrawal into our own identity, and the xenophobia this may entail, we undertake, on the contrary, to develop our specific regional characteristics as the necessary basis for productive exchanges with the rest of the world . . ."



Because they have real power and exclusive authority to develop policies and their own legislation, and since the system for debating legislation in the German federation is already highly structured, they do not want the European Community to take this away from them.

The Germans were very concerned about this for the past year or two, since they already have such a policy development mechanism in which they participate so fully that they are practically assured of supporting what the German federation eventually does.

For the rest, it remains to be seen.

Do you think that the challenges facing European nations are different from those of other nations?

It may be somewhat different because in Europe there has been a longstanding basic movement towards European unity. Nationalism in Europe co-exists with a feeling of European unity.

The nation-state, which arose in the 16th or 17th century, may have fulfilled a worthwhile simplifying function at one time. But now, this system will lead to impoverishment.

I think that the world today is moving towards large markets and anyone who does not participate in a market of at least 300 million people will have trouble defending himself.

Even the United States is a rather small market. In America, they felt the need to create NAFTA, which has been more successful than expected. It's better for Canada, and better for Mexico.

In Latin America, Mercosur has been another attempt that has had some difficulties but has involved a complete

change of mentality compared to what existed before between Latin American countries. It has the potential to be a really large market and to organize itself as such, and I believe that they can do it.

Of course, the present situation in Europe is different from other parts of the world, but in the long run it may not be so different if the rest of the world can consolidate more.

Could this type of meeting be replicated elsewhere?

Yes, why not? Because sharing experiences is important. If we Europeans can offer ours as a guide, for example, so could Canada—which is a well-known case—the United States and Latin America.

The President of the EU suggested that a regional system is the wave of the future. Does this imply the dissolution of national governments?

No, I don't think so. If there is a clear distribution of powers, all three levels are necessary. The national government plays an essential role, namely to ensure public safety and the equality of rights and obligations. So it would be hard to eliminate it. In the long run, the European Union may provide these guarantees, but for now this is not how it works. 6

From the Final Declaration of the Conference of Presidents of Regions with Legislative Power:

"[W]e call on the Committee of Ministers of the Council of Europe to adopt as rapidly as possible the draft European Charter of Regional Self-Government, initiated by its Congress of Local and Regional Authorities of Europe . . . and thereby to recognise the specific status deserved by regions with legislative power . . ."

"We also call . . . for the incorporation into the EU Treaty of the extension of application of the subsidiarity principle to regions with legislative power . . ."

"We also support the claims made by the Committee of the Regions . . . 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 elected 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."