Opinion on:

— **the communication from the Commission to the European Parliament and the Council on trans-European data communications networks between administrations,**

— **the proposal for a Council Decision on a series of guidelines for trans-European data communications networks between administrations, and**

— **the proposal for a Council Decision adopting a multi-annual Community programme to support the implementation of trans-European networks for the interchange of data between administrations (IDA)**

(94/C 217/11)

On 14 April 1994 the Council of the European Union decided to consult the Committee of the Regions, under the first and third paragraphs of Article 129d and Article 198c of the Treaty establishing the European Community, on the abovementioned proposals.

At its third Plenary Session (meeting of 17 May 1994), the Committee of the Regions unanimously adopted the following Opinion prepared by the Rapporteur-General, Mr Léon Bollendorf.

1. General comments

1.1. The purpose of the Communication and of the two proposals for Decisions is to propose a set of measures to enable national administrations and Community institutions and bodies to process and interchange the information necessary to the functioning of the internal market and implementation of common policies, by the establishment and use of appropriate trans-European data communications networks.

1.2. The Communication and the two proposals for Decisions complement existing activities described in the Communication to the Council of 10 December 1990 on trans-European networks [COM(90) 585 final], supplemented by the Communication of 2 October 1991 on requirements for the exchange of information between administrations to ensure the functioning of the internal market [SEC(91) 1752 final]. The project should also be seen in the context of the White Paper on Growth, Competitiveness and Employment insofar as it concerns large-scale information networks (Bangemann Group) .

The new comprehensive approach must integrate on a scale appropriate to the circumstances the measures already taken by the Community in the field of the processing and transmission of data between national and/or Community public administrations, namely the Caddia and Insis programmes, as well as the ENS research and technological development programme and Tedis.

It should be borne in mind that other networks linking administrations already exist (e.g. SIS-SCHENGEN, INTRASTAT, VIES-TVA, COMEDI) operating both within and outside the framework of the Union. The Committee would like to receive information as soon as possible on the results and cost-effectiveness of the existing programmes. It feels that only on the basis of an objective analysis of the current pilot projects will it be possible to guide decision-makers' future choices and channel future activities in the right direction.

1.3. The Committee stresses that the joint management of Community affairs will in particular require that the parties involved have reciprocal access to the information required for day-to-day management and decision-making. This necessarily involves a major increase in the volume of information to be processed and exchanged. The Committee therefore in principle endorses the objective underlying the Communication.

1.4. The objective of the new approach should not be an end in itself, but should, rather, focus on the mobilization of resources to help guarantee the full exercise of the four freedoms and the implementation of common policies.

As the new approach is in effect a package of measures for achieving the fundamental objectives of the European Union, clearly the implementation of these measures must comply strictly with the principle of subsidiarity. Community intervention in the creation of data communications networks between administrations must occur only where the objectives established cannot be satisfactorily achieved by the Member States alone.

1.5. Whilst the Committee in principle endorses the basic objective of the new approach, as laid down in the Communication and the two proposals for Decisions, this does not imply that it automatically sanctions every future data communications network or project for administrations. On the contrary, the

need for, and appropriateness of, every network or project must be assessed individually. The 'bottom up', rather than 'top down', approach should be adopted in setting up and implementing networks and projects, i.e. existing or planned applications in the administrations of the Member States should be considered and assessed first, and only then interconnection and exchange systems designed at Community level. Every data communications network or project must also be assessed for its compliance with the principle of subsidiarity. The Committee also feels that the emphasis should be on the interconnection and interoperability of networks.

1.6. The Committee feels that the information to be exchanged should be determined on the basis of needs defined in the Member States and the various regions, insofar as these are competent and insofar as the networks are to be created in application of legal texts already in existence or in preparation. Every future network or project must be analyzed in the light of its usefulness to potential users. It should also be ensured that the Community does not automatically participate in all future data transmission networks or projects implemented by the administrations concerned, but only in those whose scale is beyond the ability of the Member States themselves to implement and which are also in line with the fundamental objectives of the European Union.

1.7. The Committee urges that regional and local bodies be involved in the implementation of trans-European data transmission networks and projects. These bodies will be able to develop their own policies more effectively if they have access to more and better data. They should be considered not purely as providers of information but also as potential network users.

The Committee suggests that it might be useful for the regional and local bodies to set up specific networks or projects to manage their common affairs. The Community should, where necessary, contribute to the realization of such networks and projects, insofar as they comply with the criteria established.

1.8. The Committee recommends that the IDA programme be accompanied by a policy of opening up access to information to the private sector and the citizen, provided that the public interest continues to be protected. This should be made an integral part of the programme, given the need to converge towards the guidelines drawn up by the Commission with a view to improving synergy between the public and private sectors in the information market, as approved by the representatives of the Member States in the senior officials' advisory committee (SOAC). Such a policy of openness would in particular contribute to the development of less-favoured regions by making available to them information collected at other levels.

2. Specific comments

2.1. The Committee notes that the authors have based the Communication and the two proposals for decisions on Article 235 of the Treaty establishing the European Community. The Committee realizes that the present proposals follow on from earlier decisions of the European Communities taken at a time when the Treaty on European Union had been neither ratified nor even signed. At the time the Community thus had no choice but to use Article 235. However, the Maastricht Treaty has conferred new powers on the present European Union. The Committee thus considers that the proposals should, rather, be based on Article 129b(1).

2.2. It is moreover Article 129d which expressly requires consultation of the Committee on the matter. In consulting the Committee of the Regions the authors of the new approach have implicitly recognized Articles 129b et seq. as the appropriate legal basis.

The choice of legal basis has major procedural implications. Whilst Article 235 requires unanimity between the Member States and mere consultation of the European Parliament, Article 129d, read in conjunction with the first indent of Article 129c(1) ('in order to achieve... the objectives, priorities and broad lines of measures envisaged in the sphere of trans-European networks; these guidelines shall identify projects of common interest') refers expressly to the 'co-decision' procedure defined in Article 189b. Under this procedure the Council acts by qualified majority and the European Parliament is entitled to participate to a substantial degree, and can, if necessary, block the proposal finally. Thus the co-decision procedure ought to apply to the first proposal for a Decision on guidelines for data communications networks between administrations.

2.3. As for the proposal for a Council decision adopting a multiannual Community programme to support the implementation of trans-European networks for the interchange of data between administrations (IDA), the

Committee feels that this falls under the final paragraph of Article 129d, under which other measures are to be adopted in accordance with the procedure referred to in Article 189c, the 'cooperation procedure'. Under this procedure the Council acts by qualified majority, the Opinions of the Economic and Social Committee and the Committee of the Regions are required, and the European Parliament's right of participation is less pronounced than in the case of the 'co-decision' procedure.

2.4. The Committee insists all the more strongly that the legal basis should be Articles 129b et seq, as these Articles are designed to respect the principle of subsidiarity and as Article 129b(2) expressly requires the Community to 'take account in particular of the need to link island, landlocked and peripheral regions with the central regions of the Community'.

2.5. The Committee particularly urges that regional and local bodies should participate in a number of projects of common interest. It is to be hoped that involving regional and local authorities will bring them closer to national and Community central government. The participation of regional and local bodies should not be limited to collecting data, but should above all include access to the trans-European networks set up.

The Committee feels that it should have access to certain instruments such as electronic mail and data banks in areas for which it is competent.

2.6. In this context, the Committee of the Regions joins the Economic and Social Committee in stressing the importance of the action aimed at training and raising the awareness of users. It also feels that the Commission should straight away establish the conditions and provide the necessary assistance to make possible the increased participation of the regional and local bodies of the various Member States.

2.7. Cooperation with non-Community countries is also of great importance. The rapid opening of discussions with the EFTA countries, most of which will be participating in the European Economic Area, and the willingness, where necessary, to enter into consultations with other associated countries will make it possible to contribute in good time to the development of the economic dynamism of an enlarged Europe.

2.8. Also in common with the Economic and Social Committee, the Committee stresses that the data communications system should be based on international standards. The Community should therefore not attempt once again to draw up its own harmonized standards, incompatible with those adopted internationally.

Similarly, the IDA action must not be designed as a telecommunications infrastructure technological investment programme, but rather as a coordination and standardization action for systems already existing in national administrations and Community institutions.

3. Specific comments on the proposal for a Council Decision on a series of guidelines for trans-European data communications networks between administrations

3.1. Article 1 does not define the 'administrations' concerned. Point 57 of the Communication states that each Member State is responsible for the collection and processing of data which, after formatting, are transmitted, some between national, regional or local administrations, and others to other Member States or Community institutions and other bodies. The Committee feels that the text of the proposal for a Decision should make it clear that administration means any national, regional or local authority whose activities are in the nature of a project of common interest, as defined by the proposal for a Decision.

3.2. Article 3, in accordance with a vertical approach, lists as a priority: supporting and improving the Community decision-making process. The Committee notes that the decision-making process to be aimed for is not clearly defined. The COR stresses the need to place this decision-making process once again in the framework of the principle of subsidiarity and for it to respect, where necessary, any prerogatives assigned at national level to regional or local bodies.

3.3. Article 5 refers to the projects of common interest set out in Annex 1. The Committee of the Regions feels that this list should not in itself constitute prior authorization for all projects of common interest and related projects. Each project should be analyzed individually in terms of its appropriateness and cost-effectiveness. The Committee does not suggest that any particular project heading be dropped from the list.

However, it feels that in connection with the Community policies to be supported, explicit mention should be made of the management of social and employment policy.

Emphasis should be placed on a small number of large-scale projects, i.e. those which are essential for the operation of the internal market, the improvement of the decision-making process at Community level and for the management of common policies.

3.4. As for point 4 of Annex 1 to which Article 5 makes reference, the Committee would reiterate the view expressed in point 3.2, namely that the operation of the Community decision-making process should be spelt out in more detail.

4. **Specific comments on the proposal for a Council Decision adopting a multiannual Community programme to support the implementation of trans-European networks for the interchange of data between administrations (IDA)**

4.1. Article 1 states that the action is to run for five years. It is not clear whether this period is renewable. Thus, theoretically the IDA action ends after five years. The Committee regrets that neither the proposal for a Decision nor the Communication make it clear what will become of the action nor what the Community's role in the networks established will be once the five-year period has expired.

4.2. The text states that, in implementing the action, the Commission shall be assisted by a committee of an advisory nature composed of the representatives of the Member States and chaired by the representative of the Commission. The Committee notes that the proposal for a Decision adds another committee to the Community's machinery, giving rise to the danger of excessive bureaucracy, and this at a time when the committee procedure is constantly being criticized by the Member States and the Commission itself. The Committee reiterates once again that under the principle of subsidiarity it is the Member States which must carry the main responsibility for the implementation of the data communications networks, with the Community intervening in a purely subsidiary capacity.

4.3. Article 8 requires the Commission to report on activities to the Council and the European Parliament every year. The Committee, reiterating its view that the dossier should be based on Articles 129b et seq of the Treaty, which require consultation of the Committee of the Regions, feels that the activity report should also be sent to the COR, as well as the Economic and Social Committee.

Done at Brussels, 17 May 1994.

The Chairman

of the Committee of the Regions

Jacques BLANC