

# CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF EUROPE

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## **Recommendation 89 (2001)<sup>1</sup> on local and regional democracy in Slovenia**

The Congress,

1. In accordance with its Resolution 58 (1997) on the situation of local democracy in member countries and with Article 2, paragraph 3 of the Committee of Ministers' Statutory Resolution Res(2000)1 of 15 March 2000, which states that "the Congress shall prepare on a regular basis country-by-country reports on the situation of local and regional democracy in all member states and in states which have applied to join the Council of Europe, and shall ensure, in particular, that the principles of the European Charter of Local Self-Government are implemented";

2. Having sent a delegation composed of two co-rapporteurs, Gerhard Engel and Owen Masters, accompanied by a consultant, Heinrich Hoffschulte, to Slovenia in December 2000 and March 2001;

3. Grateful to the Slovenian authorities, and in particular the Slovenian Office for Local Self-Government, for their support in connection with these visits;

4. Considers it necessary to draw the attention of the Slovenian Government authorities to the following remarks and recommendations based on Report 2001 CG (8) 6 which is due to be presented to the Congress's 8th Plenary Session, scheduled to take place from 29 to 31 May 2001:

*a.* welcomes the fact that the Slovenian Government has ratified the European Charter of Local Self-Government on 15 November 1996 without availing itself of the possibilities provided under Article 12 of the Charter, so accepting all of its provisions;

*b.* welcomes the progress achieved in respect of local self-government, while nevertheless drawing the Slovenian authorities' attention to the fact that most of the new municipalities are not financially independent, and consequently recommends that the Slovenian authorities, in co-operation with local authorities, should develop a system of self-financing of municipal tasks and obligations, so that they do not have to rely on state subsidies;

*i.* considers a stricter enforcement of the Slovenian Local Self-Government Act desirable, which sets a minimum of 5 000 inhabitants for the creation of a new municipality, and consequently thinks it would be better to stop creating new municipalities, in order to prevent even greater fragmentation, coupled with inadequate funding;

*ii.* would like to see an improvement in co-operation between the Ministry of Finance, the Ministry of the

Interior and existing municipal associations and involve local authorities in discussions, notably in respect of local finance, and regrets that local authorities are not sufficiently involved in discussions about local authority funding or in the preparatory work on the various bills on local and regional self-government, respecting the provisions of Article 94 of the Law on Local Self-Government;

*iii.* invites the Slovenian authorities to respect fully Article 10 of the European Charter of Local Self-Government on local authorities' right to freely associate in one or several associations at their discretion, and also to review the composition of their delegation to the CLRAE, pending a final decision on the granting of the status of national association to two associations, so that both, namely the Assembly of Slovenian Towns and Municipalities (SOS) and the Association of Slovenian Municipalities (ZOS), are represented. Any changes need to be made before the CLRAE's 9th Plenary Session (May 2002) at the latest;

*iv.* aware of the problems surrounding the status of Koper, invites the Slovenian Parliament to find a solution that will enable Koper to remain as it is, bearing in mind that the municipality is financially independent, and that the people of Koper have repeatedly voted in referenda against dividing the city. As the municipal elections approach, a solution needs to be found quickly. At the same time, it is necessary to clarify the date of the next elections in Koper;

*c.* welcomes the process of regionalisation currently under way, and in particular the Slovenian authorities' desire to amend the constitution accordingly. But, given the financial problems facing many municipalities following the entry into force in 1994 of the Local Self-Government Act, invites the Slovenian Government both to ensure that the newly created regions, as wider spheres of local self-government, enjoy the constitutional guarantees as well as those of the European Charter on Local Self-Government and have sufficient funding and to draw inspiration in this context from the draft European charter of regional self-government. Still with regard to regionalisation, the Congress:

*i.* considers, in accordance with Article 3, paragraph 2, of the European Charter of Local Self-Government on the concept of local self-government and with Article 12, paragraph 2, of the draft European charter of regional self-government, which states that "the assembly shall be freely and directly elected by secret ballot on the basis of universal suffrage", that regional councillors should be directly elected by universal suffrage in order to guarantee the regions' self-governing status and their legitimacy *vis-à-vis* the population;

*ii.* considers that the entry into force of the Law on Regions must be accompanied by a clear and detailed definition of the regions' powers, notably in relation to the municipalities, and that the powers transferred from the municipalities to the regions could vary within each region depending on the size of the municipalities. In other words, the Slovenian Government is invited to respect the principle of subsidiarity and to ensure that powers of the

municipalities are transferred to the regions only to the extent that the municipalities' size prevents them from carrying out their responsibilities themselves;

iii. in the same spirit, invites the Slovenian authorities to ensure that numerous central government powers are transferred to the regions, and that this transfer is accompanied by adequate funding in the form of either the regions' own resources or resources transferred from central government. To that end, the Slovenian authorities are invited to redefine the powers of the administrative units to remain under central government jurisdiction, as the Congress considers that most of the present responsibilities of the administrative units should be transferred or delegated to the future regions;

iv. welcomes the fact that the governing coalition parties have set a minimum of 100 000 inhabitants for the creation of a region, but nonetheless invites the Slovenian Government, and in particular the Parliament, to ensure strict compliance with this figure other than in few exceptional cases for which strict and restrictive criteria must be defined clearly in advance;

v. thinks that the boundaries of the new regions should be defined in a law that takes into account existing divisions, such as the statistical regions and administrative units;

vi. notes with satisfaction the significant increase in transfrontier co-operation between Slovenian, Austrian, Croatian, Hungarian and Italian local and regional authorities and is also pleased to note that the Slovenian authorities intend to ratify shortly the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities and its two protocols, as it considers ratification to be essential, particularly with a view to the future creation of Euroregions;

d. welcomes the Slovenian Government's ratification of the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages, on 25 March 1998 and 4 October 2000 respectively, and invites the government to keep up its good work in order to protect the rights of the other minorities associated with much more recent immigration;

5. Invites the Committee of Ministers to take these recommendations into account when assessing Slovenia's compliance with the undertakings it made at the time of its accession, and to develop co-operation programmes, where possible with the help of other international organisations and the European Union, and also including the Congress, that will help Slovenia to continue with the reforms needed in the area of local and regional self-government, including transfrontier co-operation; it should be noted that, despite a few problems, the Slovenian authorities have made considerable progress and fully deserve support;

6. Declares, accordingly, that it is willing to help the Slovenian authorities to discuss the aforementioned questions in greater detail and, in co-operation with the intergovernmental section of the Council of Europe, to help them to draft new legislation so that a dialogue can be maintained concerning the implementation of the planned reforms. This dialogue could also encompass the arguments for and against the election of mayors by municipal councils or by the population.

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1. Debated by the Congress and adopted on 30 May 2001, 2nd Sitting (see Doc. CG (8) 6, draft recommendation presented by Mr G. Engel and Mr O. Masters, rapporteurs).