

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Recommendation 221 (2007)¹ Institutional framework of inter-municipal co-operation

The Congress, acting upon a proposal from the Chamber of Local Authorities,

1. Having regard to:

a. Article 2, paragraph 1.*b*, of Committee of Ministers Statutory Resolution (2000) 1 relating to the Congress of Local and Regional Authorities of Europe, which states that one of the aims of the Congress is to submit proposals to the Committee of Ministers in order to promote local democracy;

b. Article 2, paragraph 3, of the same resolution, which states that the Congress must ensure that the principles of the European Charter of Local Self-Government (ETS No. 122) are implemented;

c. Article 10.1 of the said charter;

d. the report on inter-municipal co-operation presented by Michel Guégan (France, L, NR) and prepared with the help of the Group of Independent Experts on the basis of a contribution from Professor Angel-Manuel Moreno (Spain) (CPL(14)6REP);

2. Stresses that the charter expressly provides for the right of local authorities to co-operate among themselves and form consortia in order to seek greater efficiency through joint projects or carry out tasks which are beyond the capacity of a single authority;²

3. Affirms that it sets great store by inter-municipal co-operation, which is already widespread in certain countries and developing fast in several others, as a means of making savings and improving efficiency in the handling of municipal affairs at local level;

4. Considers that the development of inter-municipal co-operation is essential in view of the numerous challenges facing local authorities, such as the need for modern societies to be efficient in the context of decentralisation and globalisation, in order to meet growing and increasingly complex social demands and the needs of a more mobile and sometimes unduly fragmented population (big cities, small size of municipalities, municipal fragmentation, highly scattered rural population, etc.);

5. Considers that inter-municipal co-operation has significant advantages in comparison with the merging of municipalities and the privatisation of public services, as mergers sometimes run counter to the traditions of the local population and the privatisation of public services is not sufficient

to compensate for the lack of public bodies responsible for managing and taking decisions concerning municipal affairs;

6. Considers that inter-municipal co-operation is all the more desirable in countries where regionalisation is less developed;

7. Observes that inter-municipal co-operation may take a wide variety of forms in Europe: it may be freely chosen by local authorities or imposed; it may be provided for by law or by other means (by contract); it may entail setting up a public-law or private-law legal entity or a new local authority, which may or may not be subject to the provisions of the European Charter of Local Self-Government; it may be governed by very general or, on the contrary, highly specific, binding provisions; and so on;

8. Notes that this diversity is not in itself a disadvantage either in the day-to-day performance of decentralised authorities and their inter-municipal co-operation bodies or for the purposes of transfrontier co-operation between local authorities and their inter-municipal co-operation bodies;

9. Acknowledges, however, that in some cases recourse to inter-municipal co-operation can be seen to lead to a democratic deficit, particularly because the public are not consulted when inter-municipal co-operation bodies are set up, or because the members of the councils and boards of these inter-municipal bodies are not elected by the citizens;

10. Takes note of the concern expressed about the alleged possibility that the purpose of inter-municipal co-operation will be distorted so as to enable locally elected representatives to shirk their political responsibilities by delegating the provision of public services to inter-municipal bodies that are distant or lack transparency and are not attached exclusively to any particular municipality.

11. In the light of the above, the Congress:

a. recommends that member states (represented by the competent national, federal and/or federated authorities):

i. encourage and support inter-municipal co-operation, particularly where it does not yet exist, is in its infancy or is in the process of developing;

ii. establish a sufficiently specific, predictable and accessible legal framework for the practice and development of international co-operation, especially in countries that do not have a specific legal framework for inter-municipal co-operation, or when the relevant legal framework is not sufficiently coherent, harmonised and up to date;

iii. make local elected representatives aware of the advantages of inter-municipal co-operation and the relevant issues and, where necessary, provide them with training courses concerning the establishment and operation of special inter-municipal co-operation mechanisms and bodies;

iv. embark on one or more cost-benefit analyses, as appropriate, on the one hand of inter-municipal co-operation and mergers of local authorities and, on the other hand, of the

privatisation of public services, before taking a decision to privatise these services or merge municipalities;

v. enhance the role of the local population when setting up or closing down inter-municipal co-operation mechanisms and bodies, taking partnerships and the locality into consideration, in order to preserve the cultural and landscape diversity of Europe, in particular in rural areas;

vi. adopt specific measures to ensure that the population concerned is effectively involved in matters for which public or private inter-municipal bodies are responsible, for as long as these bodies exist;

vii. guarantee that representation of minority groups in local assemblies is reflected in the structures of inter-municipal co-operation;

viii. develop appropriate techniques and procedures for encouraging good governance and transparency in decision making and in the running of special inter-municipal co-operation mechanisms and bodies;

ix. impose inter-municipal co-operation solely in cases where such an obligation is expressly provided for by law, and only after consulting the municipalities concerned;

x. require a municipality to join a specific co-operation body (association or consortium of municipalities or other body) only for objective reasons of supra-municipal interest, duly specified by law, and after consulting the municipalities concerned;

xi. ensure that domestic law regulations concerning the translation of EU law into domestic law, particularly in the area of competition and the award of public and administrative contracts, are harmonised with the regulations concerning local self-government and the principles of decentralised democracy, for example by making it clear that the provisions derived from EU law do not apply to inter-municipal co-operation when this gives rise to the establishment of a special public inter-municipal co-operation body (consortium or association of municipalities or other body);

xii. consider the possibility of collecting data and compiling statistics on inter-municipal co-operation in order to assess its true scale and whether it is necessary or desirable to strengthen it;

b. recommends that local authorities in Council of Europe member states:

i. take note of this recommendation and its explanatory memorandum, and encourage its implementation;

ii. take specific measures to encourage the development of an appropriate legal framework and the use of existing inter-municipal co-operation opportunities;

iii. take specific steps to ensure that local populations are involved when special inter-municipal co-operation mechanisms and bodies are set up or closed down;

iv. adopt specific measures to ensure that the population concerned is effectively involved in matters for which public

or private inter-municipal bodies are responsible, throughout the existence of such bodies;

v. ensure the representation and participation within the inter-municipal structures of existing minority tendencies in the various participating communities;

vi. **develop and use appropriate techniques and procedures** for encouraging good governance and transparency in decision making and in the running of the special inter-municipal co-operation mechanisms and bodies in which they are involved;

vii. regularly assess the functioning and achievements of the special inter-municipal co-operation mechanisms and bodies in which they are involved;

c. invites the Committee of Ministers of the Council of Europe:

i. to take note of this recommendation and the explanatory memorandum to it as the Congress's contribution to the implementation of the Budapest Agenda, as adopted by the Conference of European Ministers responsible for Local and Regional Government in February 2005;

ii. to forward them to the authorities of the Council of Europe member states;

iii. to forward them to the European Committee on Local and Regional Democracy (CDLR) for information and so that it can develop and finalise its own work on the same subject;

iv. to consider the possibility of adopting this recommendation as a Committee of Ministers' recommendation on this theme or adapting it to include the findings of the CDLR study;

v. to recognise the need to provide intergovernmental co-operation in this field, particularly through the Centre of Expertise for Local Government Reform, and also to offer the special technical assistance of the Congress to countries where inter-municipal co-operation is still non-existent or is about to be developed, whether it is necessary in order to improve the management of projects and public finance at local level or as an alternative to mergers or the privatisation of public services;

d. invites the Parliamentary Assembly of the Council of Europe to bear the above comments and recommendations in mind in the context of its own activities in the area of local democracy and the monitoring of the honouring of commitments entered into by Council of Europe member states.

1. Debated and approved by the Chamber of Local Authorities on 31 May 2007 and adopted by the Congress on 1 June 2007, 3rd Sitting (see Document CPL(14)6RECREV, draft recommendation presented by M. Guégan (France, L, NR), rapporteur).

2. See Article 10.1 of the European Charter of Local Self-Government and the corresponding paragraph of the explanatory report.