

REGIONAL DEMOCRACY

Council of Europe Reference Framework



The Congress of Local and Regional Authorities
of the Council of Europe

The Congress



Le Congrès

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Council of Europe Reference Framework for Regional Democracy

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I. INTRODUCTION

Within the Council of Europe, regional authorities, whatever their nature or particular institutional character, possesses references and principles concerning their democratic structure, their organisation, competences and own resources, their place within the state, their relations with other authorities and with citizens.

All these factors, such as to underpin a system of territorial democracy that is modern, open, active at various levels, mutually supportive and participatory, concerned for sustainable development and the welfare of the population, are brought together in this document entitled "Council of Europe reference framework for regional democracy".

Regional democracy is inconceivable without regional autonomy, the degree and characteristics of which will be decided by each state in the framework of the multi-tier governance which nowadays appears as the best way of reconciling democracy, efficiency and service to the population.

The political strength of this document and the authority of the references it contains derive not just from the fact that this is a text of which the Council of Europe Conference of Ministers for local and regional authorities took cognisance at its session in Utrecht on 16 November 2009, but also from the fact that its content draws heavily

on the so-called Helsinki principles and the draft European Charter of Regional Democracy adopted by the Congress in 2008.

This veritable code of rights and duties of regional entities, aimed at intermediate authorities between central government and the basic (local authority) tier, has two principal functions.

The first is to serve as a source of inspiration when countries decide to establish or reform their regional authorities.

The second is to act as a corpus of political reference principles on which the Congress can rely in the context of its statutory task of monitoring regional democracy in the member states of the Council of Europe.

Lacking as it does the binding force of the European Charter of Local Self-government, of which it is both the unofficial equivalent and the necessary adjunct, the "Council of Europe reference framework for regional democracy" nonetheless has major symbolic value, because the standards it embodies have the general approval of the Utrecht Ministerial Conference, the Congress, the Parliamentary Assembly, the EU Committee of the Regions and, more broadly, the regional community and its main associations. Over not binding, this reference framework must be considered as a step in the right

direction; nevertheless, the goal remains the adoption of a European Charter of Regional Democracy.

While preserving its own regional diversity, each country may apply from the 6 chapters and 55 paragraphs of the reference framework those principles, concepts and features which it considers most suitable and most relevant in order to shape its regional institutional practice and so develop quality governance for the benefit of its population.

Through its flexibility, its choice of alternatives and the scale of regional options it offers, the text may also be of use to federal, regionalised or merely decentralised states.

However, if it is to be applied in a credible way in keeping with the spirit which attended its drafting, the reference framework must be implemented everywhere on the basis of the underlying principles it contains, as set out in this text with regard to each level of regional democracy, namely unfailing democratic legitimacy, sufficient autonomy, real potential for action, recognition by the state and a respected status within it, as well as citizen involvement.

In order to bring this Reference Framework to life and to general notice, to give it strength and vitality, influence and authority, to highlight the relevance of its content, which ought to be acceptable to all states and at the same time useful to regions, the Congress has decided to

present it in the form of a clear, simple document with numbered paragraphs to facilitate its use.

An explanatory commentary on the different parts of the text has also been included in order to clarify – as far as possible – the substance of the ideas which underpin the dynamics and the potential of a regional architecture worthy of the name.

The wish of the Congress is that this text, like the role which the European Charter of Local Self-government has played and continues to play, may inspire those who have the task of leading and managing regional authorities in this 21st century, which demands much in terms of democracy and the quality of governance.

The Congress also hopes that in those countries where the regional authority tier does not yet exist, the text may engender the "regional desire" to establish this kind of intermediate structure which brings power and the citizen closer together.

II. OFFICIAL TEXT OF THE REFERENCE FRAMEWORK FOR REGIONAL DEMOCRACY

A. Introduction

Strengthening local and regional democracy and securing respect for human rights are among the Council of Europe's main aims because a properly functioning democracy provides one of the foundations for peace and stability in Europe.

Through their diversity, local and regional authorities also reflect the fact that the key principles of democracy and public participation in the management of living environments are flourishing.

The work of the European Committee on Local and Regional Democracy (CDLR) and the Congress of Local and Regional Authorities of the Council of Europe demonstrates the importance of providing member states (regardless of their internal structure) with a "reference framework for regional democracy" to help them with their institutional development.

In June 1993, the Conference on "Regionalisation in Europe: Evolution and Perspectives", held in Geneva by the Standing Conference of Local and Regional Authorities of Europe at the invitation of the Swiss Confederation and the Canton of Geneva, was the first manifestation of the Council of Europe's interest in regions and regionalisation.

In Recommendation 1349 (1997), the Parliamentary Assembly of the Council of Europe expressed its full support for the Congress's draft European Charter of Regional Self-Government of 1997. It recommended that the Committee of Ministers grasp the political opportunity provided by the draft Charter, involving the Parliamentary Assembly and the Congress of Local and Regional Authorities of Europe in the work, which would be entrusted to an intergovernmental committee of experts so as to finalise the text prior to its adoption and opening for signature.

At the 13th session of the Conference of European Ministers responsible for Local and Regional Government, held in Finland in 2002, the Ministers asked the Committee of Ministers to give terms of reference to the CDLR to prepare draft legal instruments of various types taking account of the guidelines devised during the Conference (subsequently referred to as the "Helsinki Principles"), modelled on the European Charter of Local Self-Government (ECLSG).

The Committee of Ministers Recommendation Rec(2004)12 to member states on the processes of reform of boundaries and/or structure of local and regional authorities sets out numerous pointers for setting up or changing such entities, particularly the need for consultation between authorities. Any reform process must be based on effective, transparent, responsible and

representative institutional dialogue. Public access to information should be ensured and the results of the dialogue should be made public as soon as possible. If institutional dialogue is to be representative, local and regional authorities at all levels that have a legitimate interest in the issues being addressed must be invited to take part, regardless of their political make-up. Lastly, it is essential that all the relevant information is made available to all the participants in good time, by means of clearly established procedures, that the result, if not binding, is at least given due consideration in the final decision-making process and, of course, that institutional dialogue is of genuine import and is not deprived of its substance by parallel processes.

At the 14th session of the Conference of European Ministers responsible for Local and Regional Government, in Budapest, the Ministers instructed the CDLR to produce a detailed report on developments, innovations and issues to be discussed at the 15th conference in Valencia, while at the Valencia Conference it decided to "keep the issue of regional self-government and the further work carried out in this field under review at [its] next session [in Utrecht, in 2009], in order to give this important aspect of democratic societies the attention it deserves".

At the same time, the Congress, continuing the work on which it had embarked when it drafted a European Charter of Regional Self-Government (1997), came up, in 2008, with a proposal for a draft European Charter of Regional

Democracy, which is appended to its Recommendation 240 (2008).

In 2008, acting on the instructions given to it in Valencia in 2007, the CDLR proposed to the Committee of Ministers of the Council of Europe that it would work with the Congress to draw up a "Reference framework for regional democracy".

This document is a compilation and a synthesis of decisions by the Ministers and the Congress, serving as a reference point for any government wishing to begin a process of regionalisation or reform of its local and regional structures, without placing its sources in any order of priority.

Drafted in the CDLR, with the help of representatives of governments, the Congress and INGOs, the "reference framework" is also a means of transcending the scope of Article 13 of the European Charter of Local Self-Government in order to help governments strike the best possible balance in the apportionment of powers and responsibilities among different tiers of government.

The "reference framework" must also stress the principle of subsidiarity¹, the principle of social and territorial

1 The **principle of subsidiarity** is designed to make sure that decisions are taken as close as possible to citizens by ensuring that action to be taken at a higher level is justified in the light of the possibilities available at national, regional or local level. The principle was devised in order to bring the places where decisions are taken closer to citizens and prevent seats of power

cohesion¹ and the need for solidarity among the components of a sovereign state (or "federal" loyalty)².

It also takes account of the emergence – to differing degrees according to the country concerned – of the concept of "regional interests", covering such regional activity sectors as culture and training, social protection and health care, balanced, sustainable development, nature conservation and the protection of biodiversity and economic policies.

The combination of all these principles and "rules for living" within a State set-up constitutes the essence of the principles of democracy.

from being unduly remote. The principle of subsidiarity has no effect on the actual existence of powers, but makes it possible to determine whether or not an existing power may be exercised, and comes into play only where there are rival powers.

1 The **principle of territorial cohesion** may be defined as the principle of equity among citizens, regardless of where they live: the objective of territorial cohesion is to provide citizens with equitable conditions of access to public services and ensure optimum conditions in terms of competitiveness, balanced, sustainable development and the improvement of the quality of life throughout the country, with due regard in particular for the diversity of geographical and demographic situations.

2 The (federal or regional) entities may exercise their powers independently and should not in theory be answerable to the higher or federal authority or to other component entities for the way in which they exercise their powers. The autonomy of the component entities is, however, liable to endanger the structure of the State. All the entities must therefore observe "**federal**" **loyalty** and, when exercising their powers and responsibilities, refrain from taking steps that can jeopardise the overall structural balance and harm the interests of other component entities.

As to the deliberative bodies of regional entities, and hence to democratic representation, direct election by secret ballot is to be preferred, though other means of designating members should not be ruled out (indirect election of the members of bodies representing the regional entity, for instance).

B. Structure and content of the reference framework

1. Regional architecture

1.1. Regional structure

1. Regional authorities are territorial authorities between the central government and local authorities. This does not necessarily imply a hierarchical relationship between regional and local authorities.

2. Where regional authorities exist, the principle of regional self-government shall be recognized in domestic legislation and/or by the constitution, as appropriate.

1.2. Competences

3. Regional self-government denotes the legal competence and the ability of regional authorities, within the limits of the constitution and the law, to regulate and manage a share of public affairs under their own

responsibility, in the interests of the regional population and in accordance with the principle of subsidiarity.

4. Regional competences shall be defined by the constitution, the statutes of the region or by national law. Regional authorities shall, within the limits of the law and/or the constitution, have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority. Regulation or limitations of regional competences shall be based on the constitution and/or law.

5. Regional authorities shall have decision-making and administrative powers in the areas covered by their own competences. These powers shall permit the adoption and implementation of policies specific to the region. Decision-making powers may include legislative powers.

6. For specific purposes and within the limits of the law, competences may be conferred upon regional authorities by other public authorities.

7. When powers are delegated to regional authorities, they shall be allowed discretion to adapt the exercise thereof to regional conditions, within the framework set out by the constitution and/or the law.

8. Regional authorities shall be responsible for promoting regional culture and defending and enhancing

the region's cultural heritage, including regional languages.

9. Regional economic development shall constitute an important aspect of regional responsibilities, to be carried out in partnership with economic operators in the region.

10. Regional authorities shall help to adapt education and training facilities to employment development requirements in the region.

11. Social welfare and public health shall be among the areas of activity of regional authorities, which shall also be responsible for promoting social cohesion in the region.

12. Balanced development of the territory shall constitute a major objective of any action by regional authorities affecting the territorial organisation of the region.

13. Regional authorities shall be responsible for protecting and enhancing natural resources and biodiversity and shall ensure the sustainable development of the region, with due regard for local, national, European and international policies in this respect.

1.3. Relations with other tiers of government

14. The relationship between regional authorities and other sub-national territorial authorities shall be governed

by the principles of regional self-government set out in this document and local self-government set out in the European Charter of Local Self-Government and the principle of subsidiarity.

15. Regional authorities and other sub-national territorial authorities may, within the limits of the law, define their mutual relationship and they may co-operate with each other.

16. Regional authorities shall co-operate with local authorities in the pursuit of objectives of general interest and to meet citizens' needs.

17. Local authorities shall be consulted, insofar as possible, in due time and in an appropriate way in the planning and decision-making processes for all matters which concern them directly.

1.4. Liens with central authorities

1.4.1. Involvement in decision-making

18. Regional authorities shall have the right as described in paragraphs 3.2 and 3.3 below to be involved in state decision-making affecting their competences and essential interests or the scope of regional self-government.

19. This involvement shall be ensured through representation in decision making bodies and/or through

consultation and discussion between the state and regional authorities concerned. Where appropriate, participation may also be ensured through consultation and discussion between state authorities and representative bodies of regional authorities.

20. In so far as the constitution and/or the law enable it, regional authorities and/or their representative bodies shall be represented or consulted, through appropriate bodies and/or procedures, with regard to international negotiations of the state and the implementation of treaties in which their competences or the scope of regional self-government are at stake.

1.4.2. Supervision and substitution

21. Any supervision of regional authorities by central state authorities shall normally only aim at ensuring their compliance with the law. However, the supervision of delegated powers may also include an appraisal of expediency.

22. Administrative supervision of regional authorities may be exercised only according to such procedures and in such cases as are provided for by constitutional or legislative provisions. Such supervision shall be exercised *ex post facto* and any measures taken must be proportionate to the importance of the interests which it is intended to protect.

23. National or federal authorities' power of temporary substitution to act in lieu of regional authority organs may be exercised only in exceptional cases and under the procedures provided for by the constitution or by law. This power shall be confined to specific cases where regional authorities have seriously failed to exercise the competences vested in them and shall be utilised in accordance with the principle of proportionality in the light of the interests it is designed to protect.

24. The decision-making power resulting from a substitution measure shall be entrusted to staff acting solely in the interests of the regional authority concerned, except in the case of delegated responsibilities.

1.4.3. Loyalty, territorial integrity and cohesion

25. The relationship between regional authorities and central government shall be based on the principle of mutual loyalty and equal dignity and shall entail respect for the unity, sovereignty and territorial integrity of the state.

26. Regional self-government necessarily entails compliance with the rule of law and the respect of the territorial organisation of every state whether in relations between central government and regional authorities, relations between regional authorities and other territorial authorities or relations between regional authorities and citizens.

27. Regional authorities shall take all appropriate measures to ensure fulfilment of the obligations arising from the Constitution or the law.

28. The exercise of regional self-government shall contribute to the central government's economic and social cohesion objectives and to central government activities aimed at achieving comparable living conditions and balanced development throughout the national territory, in a spirit of solidarity between regional authorities.

1.5. Protection of regional self-government

29. Regional authorities may be provided for by the constitution or established by law. The existence of regions, once established, is guaranteed by the constitution and/or by law and may be revoked only by the same due process of amendment of the Constitution and/or law that established them.

30. Regional authorities shall have the right of recourse to a judicial remedy in order to secure the free exercise of their powers and respect for the principles of regional self-government enshrined in domestic law.

31. Regional boundaries shall not be altered without prior consultation of the region(s) concerned. Prior consultation may include a referendum.

2. Regional bodies and internal organisation (regional democracy)

2.1. Self-organisation

32. Where a constitution and/or the law provide the right for regions to decide their internal organisation, including their statutes and their institutions, it will define this right as widely as possible.

2.2. Regional bodies

33. Regional authorities shall have a representative assembly. Executive functions, where they are not exercised directly by the representative body, shall be entrusted to a person or a body answerable to it in accordance with the conditions and procedures laid down by the law. Where the executive body is directly elected by the population, it needs not necessarily be answerable to the representative assembly but should give it account of its acts.

34. The right of regional self-government shall be exercised by assemblies elected through direct, free and secret suffrage. This provision shall in no way affect recourse to citizens' assemblies, referendums or any other form of direct citizen participation, where it is permitted by law.

35. Regional assemblies shall be directly elected through free and secret ballot based on universal suffrage, or indirectly elected by and composed of popularly elected representatives of constituent local self-government authorities.

2.3. Conditions of office

36. The conditions of office of elected regional representatives shall provide for the free exercise of their functions. They shall allow for appropriate financial allowance and/or for appropriate financial compensation for expenses incurred in the exercise of the office in question as well as, where appropriate, full or partial compensation for loss of earnings or remuneration for work done and corresponding social welfare protection. Members of the assembly shall have the right to express themselves freely during the meeting of this assembly. Any functions and activities which are deemed incompatible with the representative's office shall be determined by law.

37. Where sanctions against regional elected representatives are possible, they must be provided for by the law, be proportionate to the importance of the interest they are intended to protect and be subject to judicial review. Suspension and dismissal may only be foreseen in exceptional cases.

2.4. Regional administration

38. Regional authorities shall have their own assets, their own administration and their own staff.

39. Regional authorities shall freely determine the internal structures of their administrative system and their bodies, within the framework defined by law.

40. The conditions of service of regional authorities' staff shall comply with general principles of public service and be such as to permit the recruitment of high quality staff on the basis of merit and competence; to this end adequate training opportunities, remuneration and career prospects shall be provided.

2.5. Good governance

41. Regional authorities shall encourage the exercise of citizens' right to participate in the management of public affairs and shall aim to bring the administration closer to the public.

42. The exercise of regional self-government shall comply with the principles of informed decision-making and evaluation of decisions made, as well as pursue aims of flexibility, openness, transparency, participation and public accountability.

43. The performance of public tasks at regional level shall comply with the principles of good administration and good quality of public services.

3. Financing

3.1. Resources

44. Regional authorities shall have at their disposal foreseeable resources commensurate with their competences and responsibilities allowing them to implement these competences effectively.

45. Regional authorities shall be able to dispose freely of their resources, for the implementation of their competences.

46. In the implementation of their own competences, regional authorities shall be able to rely in particular on resources of their own at which they shall be able to dispose freely. These resources may include regional taxes, other revenues decided by regional authorities, fixed shares of state taxes, non-earmarked funding from the state and constituent territorial authorities, in accordance with the law.

47. The financial systems on which resources available to regional authorities are based shall be of a sufficiently diversified and buoyant nature to enable them to keep

pace as far as practically possible with the real evolution of the cost of carrying out their tasks.

3.2. Financial equalisation and transfers

48. The protection of financially weaker regional authorities shall be ensured through financial equalisation procedures or equivalent measures which are designed to correct the effects of the unequal distribution of potential sources of finance and of the financial burden they must support. Such procedures or measures should not have the effect of restricting the financial resources of regional authorities to the extent of hindering their freedom of administration.

49. Financial transfers to regional authorities shall be governed by predetermined rules based on objective criteria related to regional competences. As far as possible, grants to regional authorities shall not be earmarked for the financing of specific projects.

50. Financial transfers to regional authorities shall not limit the basic freedom of regional authorities to exercise policy discretion in the implementation of their competences.

51. Financial transfers to regional authorities shall be governed by rules established by law and based on objective criteria relating to regional competences.

52. Any transfer of competence to regional authorities shall be accompanied by a transfer of corresponding financial resources.

3.3. Borrowing

53. For the purpose of borrowing for capital investment, regional authorities shall have access to the capital market within the limits of the law.

4. National and international relations

54. Regional authorities shall be entitled to form associations and to undertake activities of interregional co-operation in matters within their competences and within the framework of the law. Regional authorities may also be members of international organisations of regional authorities.

55. In so far as national and/or European law allows, regional authorities shall have the right to be involved in or to be represented through bodies established for this purpose in the activities of the European institutions.

56. Regional authorities may co-operate with territorial authorities of other countries within the framework of their competences and in accordance with the law, the international obligations and the foreign policy of the state.

III. COMMENTARY ON THE ARTICLES¹

1. Regional architecture

1.1. Regional structure

1) This provides an "indirect" definition of regional authorities (by whatever different names they may be known in different countries) as compared with the two traditional tiers of authority present in all states, namely the central tier and the local tier.

In this intermediate stratum between the central and the local, it is in fact quite possible that several different tiers of authority may coexist, and logically such a situation ought to prompt the country in question to choose whether it will refer, for these tiers, to the European Charter of Local Self-government or to this reference framework. It is also made clear that there need not necessarily be a hierarchical relationship between local authorities and the regional level; this corresponds to a dynamic approach to local self-government.

2) In states where regional authorities exist, in the broad sense explained above, the principle of regional autonomy whose outlines are defined by the various concepts expounded in this Reference Framework must be

¹ Document prepared by M. Jean-Claude Van Cauwenberghe, expert of the Congress on regionalisation

recognised either in legislation governing this tier of authority and/or in the text of the national constitution.

1.2. Competences

3) This paragraph takes the traditional definition of the concept of political autonomy, whether at local or regional level, ie not only the recognised sphere of competence but also, in more practical terms, actual power to regulate and manage a share of public affairs within the limits of the constitution, the law, and their own responsibility.

Etymologically, the word "autonomy" derives from the Greek "auto", meaning oneself, and "nomos", meaning law or rule. Thus in its primary sense, autonomy is the right to rule oneself, to lay down one's own rules, hence the notion of "self-rule" in English.

As Andreas GROSS observes in a report to the Parliamentary Assembly, "The term autonomy is ambiguous since it can refer to forms of organisation that range from simple decentralisation to regionalism and federalism, ie it represents an even or uneven division of power or of certain powers. There are various forms of autonomy in Europe based on the different political systems of which the autonomous entities form a part. Whatever its form, each state contains some elements of decentralisation."¹

1 Doc 9824-3/6/2003, Parliamentary Assembly of the Council of Europe, paragraph 30.

This might be summed up by saying that "it is a relative term to describe the degree of independence enjoyed by a specific entity within a sovereign state"¹

The concluding words of this paragraph, "*in accordance with the principle of subsidiarity*", seek to define the sphere of competence of authorities by applying the principle of subsidiarity, according to which each tier of authority carries out tasks at its own level provided that they will be performed in the most effective and efficient way for the benefit of the citizen.

As the text of the introduction to the reference framework states, "The principle was devised in order to bring the places where decisions are taken closer to citizens and prevent seats of power from being unduly remote", adding: "The principle of subsidiarity has no effect on the actual existence of powers, but makes it possible to determine whether or not an existing power may be exercised, and comes into play only where there are rival powers."

Congress Resolution 97 (2000) further notes that "the application of this principle in governing relations between local authorities, regions, central or federal governments and, for the countries concerned, the European institutions, requires the national, regional and,

¹ Hansum, Hurst and Lillich, "The concept of autonomy in international law", 1980.

where appropriate, European legislatures to refrain from excessive regulation in matters that fall within the remit of local or regional authorities, which must enjoy sufficient room for manoeuvre".

4) Here we have a statement of the general principle on competences, namely that everything relating to the regional interest is to be understood as any sphere that is not excluded from the authority of the regions or assigned by the constitution, by law or by regional statute to another tier of authority. It is however made clear in the last part of the paragraph that reference must in any case be made to the provisions of law or the constitution regarding the competences conferred or limitations proposed on them.

Depending on countries' institutional systems, residual powers will sometimes fall within the competence of the state and sometimes, as in certain federal states having legislative powers, within that of the regions themselves; but in any event the constitution will be the deciding factor in all cases.

5) The formal substance of regional authorities' competences is made more explicit by the statement that these must comprise decision-making powers (political options) and administrative powers (implementation measures) such as to give effect to regional policies decided by the responsible authorities. It is also envisaged that legislative powers may be included in the range of

regional competences, as is the case in federal or regionalised countries.

6) It is also envisaged that particular powers may be entrusted or delegated to regional authorities where developments in the internal political management of a country lead to further reappportionment of competences by other public authorities to the regional tier, relative to the established institutional framework.

7) This paragraph sets out the conditions in which delegated powers are to be exercised. The regional authority must be free to exercise them - quite autonomously, we might say - in other words to "*adapt the exercise thereof*" to the regional context and regional practice, within the legal framework laid down.

8-13) These paragraphs set out a number of examples of modern, dynamic regional competences where it may be considered that regional authorities are well placed to exercise these responsibilities from the standpoint of the principles of subsidiarity, proximity and efficient management.

The spheres in question are the safeguarding and promotion of regional culture, regional economic development, educational and training facilities in connection with employment issues, problems of social welfare and health, development of the territory and the protection and enhancement of natural resources and

biodiversity and policies of sustainable development in general.

This list of examples, which is not exhaustive, is based on the range of practices observed in certain countries where regional authorities exist, whether or not they have legislative powers. However, it is ultimately for each state to decide on the scope and diversity of the responsibilities it intends to confer on its regional authorities.

1.3. Relations with other tiers of government

14) With regard to relations with other tiers of authority within a state, it is recommended that they be organised from the bottom up, on the principle of mutual respect between the different levels. So the suggested model is not hierarchical or subordinate, but is designed to be built on the principles of autonomy and subsidiarity.

Consequently, an explicit twofold reference is made in the chosen wording, both to the state's respect for regional autonomy in accordance with the concepts developed in this "reference framework" and also to regional authorities' respect for local authorities in accordance with the principles of the European Charter of Local Self-government.

15) For the practical application of the above principles, when it comes to defining relations between regional authorities and other sub-national authorities, it is

envisaged that the latter should be permitted to decide for themselves on the framework and procedures governing their mutual relations, without outside (central) interference but in accordance with the law.

16) This paragraph points out that the purpose of any cooperation or collaboration which develops between regional and local authorities must be to serve the general interest in response to citizens' needs.

17) Again in accordance with the principles upheld by the European Charter of Local Self-government, which regional authorities should observe, the wish is expressed that local authorities be consulted whenever matters of direct concern to them are under discussion. It is true that the wording "*insofar as possible in due time*" appears to indicate an obligation as to means rather than an obligation as to results, but this cautious wording should be interpreted carefully since the fundamental principle of openness to intra-state dialogue and involvement is quite essential to the respective autonomies within a state managed on different levels.

1.4. Links with central authorities

1.4.1. Involvement in decision-making

18) This point covers the need to "associate" regional authorities in state decision-making processes whenever

the state is planning reforms or measures affecting regional authorities as the intermediate tier of authority.

Just as the preceding paragraph required regional authorities to consult local authorities on reforms affecting them, in order to respect the principles of equal institutional dignity and autonomy, so regional authorities are themselves entitled to expect the same attitude on the part of the central state when it plans to take decisions "*affecting their competences and essential interests or the scope of regional self-government*".

This goes to the very heart of the concept of regional autonomy.

19) This paragraph answers the question: What form should this "regional association" in the state decision-making processes take?

Several approaches can be envisaged. Ideally, regional authorities should be represented on state decision-making bodies (eg. 2nd chamber, state/region consultation bodies) and/or through formal or informal consultation and discussion processes enabling debate to take place between the different levels of authority concerned.

It is of course envisaged that this central/regional authority dialogue may be conducted on the regional side through

associations representing the interests of regional authorities.

20) Subject to being provided for in the constitution or in law, this paragraph suggests that consultation of this kind be extended to the sphere of international negotiations conducted by the state and to the implementation of treaties affecting the competences of regional authorities.

This will also apply where such international conventions relate to the scope of regional autonomy or where the implementation of international provisions will entail action by the regional authorities, depending on domestic arrangements in the state in question.

This is a common situation in federal and regionalised states, but is also conceivable in less strongly regionalised ones.

1.4.2. Supervision and substitution

21) This paragraph tackles the sensitive question of state supervision of regional authorities, which does of course vary from one country to another but is nevertheless grounded in a number of basic principles.

For example, state supervision may not go beyond verifying lawfulness, and in particular checking that regional decisions do not exceed the powers conferred on

regions by the constitution or by law and do not infringe superior principles (eg. international convention - constitution).

Controls on expediency are prohibited in this connection as reflecting a kind of interventionism which is at variance with responsible regional autonomy.

However, a slight departure from this principle is permitted with regard to powers delegated by the state. Unlike the case of "conferred powers" , where the state delegates certain of its functions to regional authorities (see paragraph 6), supervision may be allowed to include an assessment of expediency in so far as the state has entrusted to another authority part of the power it held and over which it wishes to retain a measure of supervision.

In order to determine the actual nature and limits of this control on expediency, however, it must be borne in mind that, where delegated powers exist, the 2nd part of paragraph 6 permits their exercise to be adjusted to the regional framework.

22) The second part of the supervision principles laid down in this paragraph explains the conditions applied to this right of supervision, which is referred to as "administrative" to distinguish it clearly from political supervision.

First, it is emphasised that supervision must be exercised "*only according to such procedures and in such cases as are provided for by constitutional or legislative provisions.*" It is a matter of checking lawfulness in a lawful manner.

In any event, such supervision must be exercised "*ex post facto*", which precludes any prior censorship by the state of decisions which regional authorities might be intending to take.

Lastly, the idea that supervision measures must be proportionate to the interests which the state intends to protect actually expresses a wish to discourage over-fussy supervision of decisions of secondary importance taken by regional authorities, in other words supervision disproportionate to the importance of the measure taken - ie of the interests at stake.

23-24) These paragraphs relate to the most draconian supervision measure taken by a state, where the central authority replaces the regional authority bodies which have seriously failed to discharge the competences vested in them.

Such intervention by the state, for the purpose of having a regional authority directly run by representatives of the state if its management is seriously "at fault" or "irregular", can be envisaged "*only in exceptional cases*" and the procedures laid down in the constitution or in law must be scrupulously observed.

This kind of substitution must be inherently "temporary" and confined to "exceptional cases", and entrusted to staff acting solely in the interests of the regional authority concerned.

It is clear from the very restrictive wording of this exceptional possibility that it may not serve as a pretext for the central government to have action falling within the definition of "control of expediency" taken by staff under its own authority. The purpose of substitution may only be to bring the actions of the organs of a regional authority sanctioned in this way back within the proper framework of the country's institutional legality.

As for the exception applying to delegated powers, it is logically explained by the fact that where the delegated power has been used in a seriously irregular or unlawful manner, the substitution in fact amounts to revocation of that power, which the state takes back to itself.

Here again, the concept is tempered by the principle of proportionality which requires that this exceptional procedure be employed only to the extent necessary for the interests at stake.

1.4.3. Loyalty, territorial integrity and cohesion

25) Autonomy does not mean independence. The autonomy of regional authorities as defined by the

principles set out in the reference framework exists within a system of reciprocal rights and duties of the different institutional components of the state.

This finds expression in the text in such terms as "*mutual loyalty*" and "*equal dignity*". Not wishing to allow any "separatist" interpretation to colour these autonomy principles, the text makes it clear that regional authorities' obligations towards the state include respect for the latter's *unity, sovereignty and territorial integrity*.

26) This further paragraph contains a reminder that there must be respect for the rule of law and the territorial organisation of the state, and respect permeating relations between the various levels of power and with citizens.

This mutual and inter-institutional respect is a prime condition of harmony and cohesion within the state.

27) Regional authorities have a duty to take all necessary measures to ensure fulfilment of the obligations arising from the constitution or the law. Thus regional authorities are required to adopt a pro-active stance in giving practical effect to the obligations which all states place on sub-national authorities or those which they are invited to accept.

28) The final paragraph of this chapter deals with the question of regional authority involvement in the necessary overall economic and social cohesion of the

state. Despite the autonomous powers they may enjoy within states, regional authorities are not isolated structures living in "territorial bubbles".

In today's world of Europeanisation and globalisation, any harmonious economic and social development in a state that is concerned to bring about comparable living conditions for all its citizens and balanced development throughout its territory will logically require convergent action on the part of all the authorities established within that state, in a spirit of solidarity and complementarity with those of central government.

That being the case, as partners of the state regional authorities are in the forefront alongside local institutions. The political philosophy underlying this approach is appropriate to regions which work together with the state, not which operate in opposition to it or in isolation.

1.5. Protection of regional self-government

29) While regional authorities are obliged to respect state structures, the reverse must be equally true.

Once established and recognised by states, with competences and resources conferred in varying measure, regional authorities must benefit from mechanisms to safeguard their existence. In this connection, it is first envisaged that their institutional level be given "official" status and permanence under the constitution or the law.

Their existence could only be called into question by a subsequent constitutional or legislative change.

30) While this is a logical approach in terms of the democratic process, since a central authority can always in theory undo what it has done and reform a regional structure it has created, the spirit of the paragraphs that follow makes it quite clear that these are exceptional hypotheses which must be fully justified in such an eventuality.

Although there is no formal institutional "standstill", nevertheless any attempt to return regional powers to the central level would conflict with the spirit of autonomy and the concept of subsidiarity.

This accounts for the stipulation that regional authorities have the right of recourse to a judicial remedy in order to secure "*the free exercise of their powers and respect for the principles of regional self-government enshrined in domestic law.*" In such cases, administrative tribunals or constitutional courts must have jurisdiction to bar any interference by the state with the prerogatives of regional authorities.

31) In addition, it is recommended that regional boundaries shall not be altered by the state without prior consultation of the regional authority or authorities

concerned. This includes the possibility of prior consultation by way of referendum.

True, the reference here is to consultation of the regional authority, not to the latter's consent, but it is assumed that democratic political practice at the present time would decline to move in a direction rejected by the regional authority and its citizens.

2. Regional bodies and internal organisation (regional democracy)

2.1. Self-organisation

32) The message of this paragraph, which is actually worded in a very general way, is that where the constitution and/or law of a state provide for regional authorities to decide "*their internal organisation, including their statutes and their institutions*", they may define the substance and arrangements in the broadest possible way.

This will be taken to mean that , once a state has recognised the principle of regional autonomy, it must give the regional authority free rein in defining what it sees as the most appropriate ways of organising its institutions, bodies and operating procedures.

It would be contradictory for a state to grant regional authorities their autonomy and then tell them how to use it.

Only the limits laid down by the constitution or by law determine competences or rules governing supervision.

"Self-government" is a fundamental principle of any self-respecting regional autonomy.

2.2. Regional bodies

33-35) From reading these paragraphs, it will be clear that there is a range of alternatives governing the composition of regional bodies, whether assemblies or executives.

As stated in the introduction to the Reference Framework, "As to the deliberative bodies of regional entities, and hence to democratic representation, direct election by secret ballot is to be preferred, though other means of designating members should not be ruled out (indirect election of the members of bodies representing the regional entity, for instance)."

Thus it is envisaged that assemblies will be elected "*through direct, free and secret suffrage*", and in those few countries where the assemblies of territorial authorities are indirectly constituted, they may be "*composed of popularly elected representatives of constituent local self-government authorities*."

This second possible system is acceptable only because election at local level carries direct democratic legitimacy, the elected representatives then being delegated to the regional level.

The text goes on to add that this principle of democratic election of assembly members, whether direct or indirect, in no way hinders recourse to other forms of participatory democracy, where permitted by law, for example through citizens' assemblies or referendums.

With regard to the executive functions of regional authorities, two systems are likewise envisaged for the supervision to be exercised by the assemblies to which these executives are answerable.

If the executive is an emanation of the assembly, it will be answerable for its actions to the assembly in accordance with the conditions and procedures prescribed by law.

On the other hand, if the executive body is elected directly by the people, it will not "necessarily be answerable to the representative assembly but should give it account of its acts."

It will be seen that the difference between the two situations rests on the degree of legitimacy of the members of the executive, which in the case of direct election by the people confers on its members a popular

democratic base which is equal, if not superior, to that of the regional assembly's members.

2.3. Conditions of office

36) This paragraph contains a number of basic principles concerning the conditions of office of elected members, who - as democracy requires - must have genuine freedom to express their political opinions as well as material conditions appropriate to the discharge of their functions and a system of safeguards which permits of sanctions only under the protective wing of the law.

The system of "allowances" and/or financial compensation for expenses incurred in the exercise of the member's office, whether he is a member of the executive or the assembly, is invariably a delicate subject in every country, and the text adopted settles for a cautious recommendation that such compensation is to be "appropriate". This allows a very broad margin for judgment.

However, this text offers clearer guidelines for determining such compensation. It refers to "*full or partial compensation for loss of earnings*" [suffered by the elected regional representative], with the additional criterion of "*remuneration for work done and corresponding social welfare protection.*"

It also recommends that functions and activities which are deemed incompatible with the representative's office be determined by law. This means that the incompatibility rules affecting regional representatives, whether in terms of eligibility or taking office, must have a predetermined, transparent legal basis.

37) This paragraph tackles the important problem of sanctions against regional elected representatives. While it must of course be possible to sanction regional elected representatives who are at fault, the behaviour complained of must be set down in law (*nulla poena sine lege*) and the sanction imposed must be in proportion both to the fault perpetrated and to the interest which the supervisory authority seeks to protect.

Last but not least, it is stipulated that such sanctions must be "subject to judicial review".

Needless to say, the objective here is to avoid arbitrary action in the matter, either on the part of the central authority or even on the part of the regional authority against one of its regional representatives accused of irregular or unlawful acts.

In no case may sanctions relate to political opinions unless these are unlawful.

For this reason, an independent system of judicial review external to the institution is the minimum standard required.

Judicial review, of course, means that the representative accused must have the benefit of an independent and impartial "judge" respecting the rights of the defence and, more generally, the principles of a "fair trial" as defined in the European Convention on Human Rights and Fundamental Freedoms.

The stipulation at the end of this paragraph that suspension and dismissal may only be foreseen "in exceptional cases" clearly indicates that these sanctions, as the most serious in the scale of penalties which may be imposed on elected representatives, must be used with caution and circumspection.

2.4. Regional administration

38-39) These paragraphs headed "Regional administration" cover the human and financial resources which any regional authority must have at its disposal in order to discharge its function and exercise the powers conferred on or delegated to it within the state.

An efficient administrative structure in keeping with the country's usage and customs, provided with competent staff, together with appropriate financial resources, are stated to be essential to the proper functioning of this tier

of authority, which may "*freely determine*" the framework, structures, organisational arrangements and the bodies to be set up to achieve full efficiency. This must of course take place in accordance with the law which the state may enact to govern the administration of its sub-national authorities.

40) This paragraph sets out a number of principles governing the "*conditions of service of regional authorities' staff*".

First of all, these conditions must be modelled on the requirements of the general principles of public service in force in the country. General mention is also made of some fundamental principles of an efficient public service, such as the requirement of "*recruitment of high quality staff on the basis of merit and competence*".

In return, these authorities' staff must enjoy proper conditions of service, based on "*adequate training opportunities, remuneration and career prospects*".

It is for each regional authority to give effect to these principles, whose general nature does not exclude the exacting standards required of a regional public service.

2.5. Good governance

41) It is symptomatic that the first factor to be mentioned under this heading is the desire to develop a

policy of citizen participation in the management of public affairs. Today's citizen is no longer regarded as a passive subject of the administration, but as a person actively involved in the administration who is to be encouraged, through a variety of procedures, to play a part in public affairs at times other than elections.

This participatory democracy is designed to bridge the gulf which often exists between the authority and the population to whom it could well come closer.

Note in this connection that the Congress has on several occasions sought to promote stronger citizen participation in local and regional public life.

For example, in Resolution 91 (2000) on responsible citizenship and participation in public life, it restated the guiding principles of such a policy, emphasising that *"democratic politics based on civil rights requires citizens who are politically mature, interested in public affairs, democratically minded and aware of their political co-responsibility.... The responsibilities of a good, democratic citizen include a willingness to keep oneself informed of political developments, to contribute to shaping informed public opinion and to take part in political events as an active, committed member of society."*

In its Recommendation 139 (2003) on NGOs and local and regional democracy, the Congress again underlined that *"freely-entered-into partnerships between local and*

regional authorities and NGOs help to strengthen local and regional democracy and citizen participation, by reducing the divide between those authorities and their citizens and ensuring that all points of view and areas of sensitivity are taken into account;... the legitimacy of such partnerships derives from the need to bring decision making closer to citizens and to expand the machinery for consultation, information provision and citizen participation, with a view to achieving new forms of local and regional governance..."

42-43) These paragraphs set out the present-day requirements of good governance, on which all authorities must in theory, and above all in practice, henceforth base themselves in striving for efficiency, that is to say cost-effectiveness in the general interest and the service of the population.

Accordingly, several criteria are mentioned, for example well prepared and carefully informed decisions, a culture of assessment and objective-based management including "*flexibility, openness, transparency, participation and public accountability.*"

Summarising these concepts, the paragraph also reaffirms the need for "*good administration and good quality of public services.*"

3. Financing

3.1. Resources

44) This chapter on the financing of regional authorities is based on the old adage that there can be no sound policy without sound finances. The concept of financial autonomy is defined as the ability to cover expenses from own resources.

The aim is to enable regional authorities to discharge their powers and responsibilities effectively.

Two parameters seem essential to the achievement of that aim. First, it is a precondition that there exist a clear framework setting out the kinds of resources on which regional authorities can count in drawing up their budgets and action programmes. The second is that these tax powers conferred on regional authorities must match the scale of competences and responsibilities of authorities at the regional level.

Given these general requirements, the following three paragraphs seek to expound them in more detail.

45) This paragraph, which complements the preceding one, sets out the principle of autonomy in the allocation of the resources available to regional authorities in accordance with the legal or constitutional apportionment of responsibilities that is customary in the country.

This freedom to manage and use regional resources in order to implement regional authorities' competences and tasks represents the principle: receipts allocated by the state for the implementation of policies pre-determined by it on an occasional or ongoing basis constitute the exception to it.

46) This paragraph is important to the financial and fiscal autonomy of regional authorities because it sets out exactly which kinds of resources they must have at their disposal in order to discharge the powers devolving on them - firstly, and in part, the "*resources of their own*", which they must be able to use freely, as this and the preceding paragraph insist.

These own resources may derive from various types of revenue such as regional taxes or charges, duties and allocations autonomously decided on by regional authorities, subject to reservations and within limits set by law or the constitution.

It is also envisaged that these own regional resources may be supplemented by a fixed share of state taxes allocated by the state to its regional authorities under the legal rules in force in the country, or alternatively by non-earmarked grants which the state makes to regional authorities.

It will be apparent that - as indeed is the case in most states - there is a dual source of funding for the income

budgets of regional authorities, the receipts coming both from these authorities' own autonomous resources and from transfers of state resources.

As stated in the very comprehensive Recommendation (2004) 1 of the Committee of Ministers to member states on financial and budgetary management at local and regional levels, "*The overall system of local and regional finance should aim at striking a suitable balance between financial transfers, including grants and shares of nationally determined taxes on the one hand, and locally determined taxes and charges on the other. Such balance should provide discretion to adjust revenue and expenditure levels to local priorities, and also ensure that local services nevertheless reach minimum standards, whatever the local or regional fiscal capacities may be.*"

Some commentators have observed that financial autonomy exists only when resources are sufficient to do more than finance obligatory expenditure.

Let us add that the larger the share of own resources, the more real regional autonomy becomes. The corollary of this is that the authorities must assume greater political responsibility towards their taxpaying citizens.

But is that not the price of any autonomy?

It is also important to note two further standards in this matter: the resources available to regional authorities must

be commensurate with their competences and functions, and at the same time fall within the legal framework defined by the state.

47) This final paragraph states that the financial mechanisms referred to in the preceding paragraphs must not be set at a fixed point in time, otherwise the resources available might not keep pace with cost inflation in regional operations.

Consequently, it is recommended that these financial resources should be "of a sufficiently diversified and buoyant nature to enable [regional authorities] to keep pace as far as practically possible with the real evolution of the cost of carrying out their tasks."

Moreover, the Congress resolution on regional public finance policies (Resolution 265 (2008)) states that "financial systems shall provide regions with reasonable stability and at the same time allow them to keep pace with the real evolution of the costs of carrying out their responsibilities".

3.2. Financial equalisation and transfers

48) This paragraph brings us to the delicate problem of imbalances in wealth between different regional authorities within one and the same country.

Given disparities in the resources of regional authorities due to history, geography, population and climate, affecting the socio-economic development of a country's different regional components, financial mechanisms are needed to ensure territorial equality.

This equality impinges on either the right of citizens to enjoy equivalent services throughout the territory or the desire to enhance national unity, or - preferably - both objectives together.

Financial equalisation mechanisms are the only way of correcting these imbalances and bringing about convergence between the resources of regional authorities, to the benefit of their fellow-citizens.

European policy on structural funds does precisely this in the different regions of its 27 constituent states.

So this paragraph recommends that states provide for financial equalisation procedures or equivalent compensation measures "designed to correct the effects of the unequal distribution of potential sources of finance and of the financial burden they must support."

There are two factors which may justify a financial equalisation mechanism to assist a regional authority: (i) its low fiscal potential, that is to say its tax revenue, postulating a level equivalent to the national average, for example, and (ii) differences in the particular burdens

falling on a regional authority, whether by reason of its peripheral rural or upland situation, urban concentration leading to externality expenditures, or socio-economic or social disadvantage as compared with the country's standards (eg. unemployment rate).

This financial equalisation will take the form of "vertical" solidarity, with the state acting as the "*redistributor*" of resources to its regional authorities, or of "horizontal" solidarity between regional authorities themselves, the wealthiest helping the poorest and the strongest helping the weakest.

While its motivation may be understandable, the last paragraph seems to contradict the preceding ones: it appears to say that these financial equalisation mechanisms as a whole must not impoverish any regional authority, which sounds like a pious hope rather than a practical, realistic prospect.

Financial transfers must be codified in legal texts or regulations on the basis of "*objective criteria related to regional competences*". The aim is to determine their extent in the light of the various tasks entrusted to regional authorities and of their fiscal potential, not to redistribute for the sake of equalisation.

Lastly, using sometimes redundant wording, the following paragraphs restate three further rules.

First, in accordance with the general principle of autonomy, comes the regional authority's freedom to use as it sees fit the resources which it raises or receives.

The second principle in a way restates the first one, albeit qualified by the phrase "*as far as possible*", stipulating that "*grants to regional authorities shall not be earmarked for the financing of specific projects.*" In other words, grants may not be earmarked unless this is expressly provided for in the regulations as a project subsidy mechanism.

The third principle is the responsibility of the decision-maker: where the state decides to transfer competence to a regional authority, it must accept the consequences and at the same time provide the corresponding compensatory resources.

It should be noted that all the criteria contained in these paragraphs on financial equalisation actually reflect the same philosophy as that set forth in the Committee of Ministers' recommendation to member states on local taxation, financial equalisation and grants to local authorities (Rec2000)14).

Among other things, that recommendation refers to the method of estimating expenditure needed for financial equalisation and the relevant mechanisms.

"These systems should be designed so that they can at least partially equalise the fiscal strength of local

authorities in order to enable them, if they wish, to provide a broadly similar range and level of services while levying similar rates of local taxation." (Point 2b paragraph 2 of the recommendation).

3.3. Borrowing

53) It is advised that this financial technique be authorised for regional authorities in order to supplement their resources. This paragraph concerns borrowing on the capital market to finance investment expenditure. Regarding apportionment, note the (salutary and logical) restriction whereby ordinary operating expenditure may not be funded by borrowing, which must be kept for the long-term financing of investment. Let us also observe that many states oversee the impact of such borrowing (or other corresponding resources) on regional authorities' level of debt. Sometimes different rules apply here as between "domestic" borrowing and borrowing on foreign markets.

Point 24 of Recommendation Rec(2004)1 of the Committee of Ministers to member states on financial and budgetary management at local and regional levels, already cited, states: *"In general, local and regional authorities should have the right to incur debts only for the funding of investment expenditure and not for current expenditure. The level of debt could be established in relation to the volume of the authority's own resources, their extent, stability and foreseeable development."*

4. National and international relations

54) These paragraphs outline regional authorities' powers and possibilities for action together with other tiers of authority at both domestic and foreign level.

Regional authorities may form associations for the purpose of coordinating their action and defending their interests. This is the principle of the right to freedom of association translated here to the regional institutional level.

Moreover, this is wholly in keeping with the present-day context in which inter-regional cooperation is developing in various Council of Europe states.

While authorities may work together at the national level, they may also do so on the international level; this is made clear by the sentence: "*Regional authorities may also be members of international organisations of regional authorities.*" The only limitation on this right is that their action must relate to matters falling within their competence, and of course in accordance with the law.

55) This being so, it is logical that regional authorities should be allowed to involve themselves in the work of the European institutions in the broad sense. Both the European Union and the Council of Europe have created numerous consultation forums and networks dealing with regional issues. So this paragraph enables regional

authorities to be involved in European questions, naturally "*in so far as national and/or European law allows*".

This may take the form of direct involvement by the regional authorities or of indirect involvement via bodies set up to represent them for the purpose.

56) This paragraph opens the door to transfrontier cooperation, in which many regional authorities are already engaged. Instruments have even been created to this end.

These transfrontier or international activities must conform not only to what domestic law allows, but also to the state's international undertakings and, more generally, to each country's foreign policy.

RECOMMENDATION 282 (2010)

Follow-up by the Congress to the Council of Europe Conference of Ministers responsible for Local and Regional Government (Utrecht, Netherlands, 16-17 November 2009)

1. The Congress of Local and Regional Authorities of the Council of Europe welcomes the substantive discussions held at the 16th Council of Europe Conference of Ministers responsible for Local and Regional Government in Utrecht on 16 and 17 November 2009, which confirmed member governments' commitment to continuing and further developing the Council of Europe's activities in the field of local and regional democracy.

2. The Congress notes that the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) and Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (ECGs) (CETS No. 206) were signed by a large number of countries during the conference, bearing witness to this commitment. It sincerely hopes that other signatures will follow shortly.

3. In view of the growing importance of the regional tier of governance, it believes that the Reference Framework for Regional Democracy, which the ministers

responsible for local and regional government took note of at the conference, is a major initial step in the process of strengthening regional democracy.

4. It is therefore pleased by the ministers' recommendation that the Congress and the Parliamentary Assembly use the reference framework when considering institutional and governance reforms at the regional level and by the inclusion of the text in the conference final declaration.

5. The Congress also welcomes the report by Ms M. Kiviniemi, Minister of Public Administration and Local Government of Finland, on enhancing the work of the Council of Europe in the field of local and regional democracy, which is a major contribution to discussion of the subject.

6. The Congress would nevertheless like to draw attention to the joint position it adopted with the Parliamentary Assembly regarding the document, underlining, in particular, the importance of the diversity of the Council of Europe's political organs, which is a mark of its originality and the uniqueness of its contribution.

7. At the same time, the Congress supports the Kiviniemi report's proposal that co-operation with the European Committee on Local and Regional Democracy (CDLR) be stepped up as regards monitoring of the application of the European Charter of Local Self-

Government (STE No. 122). With reference to Committee of Ministers Statutory Resolution CM/Res(2007)6, the Congress will continue to give top priority to its monitoring activities and believes there is a need for the CDLR to follow up the resulting recommendations at intergovernmental level.

8. In the light of the above, the Congress asks the Committee of Ministers to:

- a. take note of these comments on the Kiviniemi report and to continue guaranteeing the diversity of the organs and activities of the Council of Europe which are its key asset in the field of local and regional democracy, while also ensuring a level of inter- and intra-institutional co-operation that enables tangible results to be achieved;
- b. encourage member governments to take account of the Reference Framework for Regional Democracy when formulating policies for the regional level or in the context of relevant institutional reforms;
- c. sign up to the provisions of the Utrecht Final Declaration with regard to European Local Democracy Week and to support and encourage the activity, in particular by promoting the event and its results among governments of member states.

1. Debated and adopted by the Congress on 18 March 2010, 2nd Sitting (see Document CG(18)7, explanatory memorandum), rapporteurs: K. Andersen (Denmark, R, ILDG) and J.-C. Frécon (France, L, SOC).

REPLY ADOPTED BY THE COMMITTEE OF MINISTERS

on 19 April 2011 at the 1112th meeting of the Ministers' Deputies

CM/Cong(2011)Rec282 final - 21 April 2011

"Follow-up by the Congress of the Conference of Ministers responsible for Local and Regional Government (Utrecht, Netherlands, 16-17 November 2009)"– Recommendation 282 (2010) of the Congress of Local and Regional Authorities of the Council of Europe

1. The Committee of Ministers has given careful consideration to Recommendation 282 (2010) on "Follow-up by the Congress of the Conference of Ministers responsible for Local and Regional Government (Utrecht, Netherlands, 16-17 November 2009)", which it has brought to the attention of the governments of member states and has sent it to the European Committee on Local and Regional Democracy (CDLR) for comments.

2. In the course of its examination, the Committee has taken due note of the comments of the Congress on the report "How to enhance the work of the Council of Europe in the field of local and regional democracy?" (the Kiviniemi report), which was presented to the 16th session of the Council of Europe Conference of Ministers responsible for Local and Regional Government. The Committee is committed to the Council of Europe's

institutional structure, in which the Congress plays an important role. In this connection, it refers to its 1103rd meeting (19-20 January 2011), where it adopted a revised version of the Statutory Resolution and of the Congress Charter. It encourages the Congress to continue its activities aimed at strengthening local and regional democracy at the pan-European level. It considers that a high level of interinstitutional co-operation within the Council of Europe will make an effective contribution to achieving this objective. This is even more necessary in the context of the reform process currently under way, one of the aims of which is to ensure that the activities of the Congress contribute more to the Organisation's fundamental objectives.

3. The Committee notes that the Utrecht Declaration specifically invites the Congress to participate in a certain number of activities, and welcomes the fact that the Congress has responded positively to these invitations.

4. The Committee of Ministers encourages the governments of member states to take account of the Reference Framework for Regional Democracy in connection with policies and reforms, as proposed in paragraph 8 b. of the recommendation. It recalls that the Framework was prepared jointly by the Congress and the CDLR as "a useful and practical reference for those considering institutional reforms and governance at the regional level, as well as for the Parliamentary Assembly and the Congress in their work".

5. Turning to the possible role of intergovernmental co-operation as part of the follow-up to Congress recommendations connected with monitoring, the Committee notes that this is one of the numerous aspects which should be considered in the context of the general review of the monitoring of the European Charter of Local Self-Government being carried out by Mr Chaves, the Spanish Minister for Local and Regional Policy. The Committee of Ministers will consider the conclusions of this review in due course.

6. Finally, the Committee welcomes the decision to make “human rights at local level” the main theme of the 2011 European Local Democracy Week and encourages all those concerned to contribute to the successful outcome of this initiative.

Within the Council of Europe, regional authorities, whatever their nature or particular institutional character, possess references and principles concerning their democratic structure, their organisation, competences and own resources, their place within the state, their relations with other authorities and with citizens. All these elements are gathered in the “Council of Europe Reference Framework for Regional Democracy”.

The political strength of this document, and the authority of the references it contains, derive not just from the fact that this is a text which the Council of Europe Conference of Ministers for local and regional authorities acknowledged, at its session in Utrecht on 16 November 2009, but also from the fact that its content draws heavily on the so-called Helsinki principles and the draft European Charter of Regional Democracy, adopted by the Congress in 2008.

This veritable code of rights and duties of regional entities, aimed at intermediate authorities between central government and the basic (local authority) tier, has two principal functions. The first is to serve as a source of inspiration when countries decide to establish or reform their regional authorities. The second is to act as a corpus of political reference principles on which the Congress can rely on, in the context of its statutory task of monitoring local democracy in the member states of the Council of Europe.

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The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, 28 of which are members of the European Union. The Congress of Local and Regional Authorities is an institution of the Council of Europe, responsible for strengthening local and regional democracy in its 47 member states. Composed of two chambers – the Chamber of Local Authorities and the Chamber of Regions – and three committees, it brings together 648 elected officials representing more than 200 000 local and regional authorities.