

CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF EUROPE

Resolution 146 (2002)¹ on the draft European charter of regional self-government

The Congress, bearing in mind the proposal of the Chamber of Regions,

1. Considering:

a. its Recommendation 34 (97) on the draft European charter of regional self-government, which it adopted on 5 June 1997;

b. Parliamentary Assembly Recommendation 1349 (1997), adopted on 7 November 1997, and the support for the charter expressed therein;

c. the report, dated 3 April 2002, by its rapporteur Mr Peter Rabe (Germany, R) on the current state of discussions concerning the draft European charter of regional self-government;

2. Appreciating the opinion adopted by the European Union's Committee of the Regions on 13 December 2000 and the support given therein to the preparation of a European charter of regional self-government in convention form;

3. Bearing in mind the declaration on the future of federalism in greater Europe made by the Conference of Presidents of Regions with Legislative Powers on 16 October 2001;

4. Stresses:

a. that measures taken by the member states to foster local and regional self-government are based in particular on trends within the Council of Europe and the European Union towards consolidation of the subsidiarity principle, and that, in this respect, reference can be made to furtherance of the subsidiarity principle under the Treaty of Maastricht of 1992;

b. that, in addition, the basic principles of flexibility, efficiency, transparency and accountability in the performance of state tasks, and the need to ensure closeness to the citizen when actually distributing tasks among different tiers of government and administrative authorities, should command general recognition in the future organisation of European integration;

c. that, against this background, much progress has been made since 1997 with the development of local and regional self-government in member states of the Council of Europe, and the Congress welcomes in particular the accessions to, and ratifications of, the European Charter of Local Self-Government that have taken place since that date;

d. that, with regard to the exercise of state responsibilities and powers, the basic conditions for pan-European integration have resulted in an increased distribution of tasks among central, regional and local government, which has, in particular, consolidated the role of local and regional authorities;

e. that, for these reasons, in almost all member states of the Council of Europe, advances towards the strengthening of structures of regional self-government are to be noted, leading to greater participation by regional decision-making bodies in both state and European decision processes;

f. that these advances have been transposed into national law in different ways, but often at the levels of both constitutional and ordinary statute law;

g. that the development of structures of local and regional self-government at the same time enhances public participation in democratic opinion-forming processes and thus helps to strengthen structures of democratic self-government;

5. Underlines:

a. that, through regular monitoring of the progress of local and regional democracy in its now forty-four member states, the Council of Europe makes a significant contribution to the study and appraisal of practical and legal advances in the field of local and regional self-government;

b. that the Council of Europe is accordingly particularly well-placed to translate this experience of local and regional self-government into generally applicable principles, guidelines and rules of law, consistent with the interests of all member states, while safeguarding specific national interests;

c. that, in this context, special importance is to be given to the establishment, in the near future, of legally binding principles for the organisation of regional self-government, which, on the one hand, bring to the fore the general advantages of this system and, on the other hand, guarantee the necessary flexibility in adapting it to any national particularities;

6. Acknowledges, in this connection, the Committee of Ministers' initiative of giving careful consideration to the Congress's draft European charter of regional self-government on account of its implications for the future of regional self-government in Europe;

7. Particularly appreciates the special significance of the work done by the Steering Committee on Local and Regional Democracy (CDLR) from 1998 to December 2001 to examine the draft European charter of regional self-government, which produced the following important results, in particular:

a. clear definition of the range of forms of regional self-government to be found in the member states of the Council of Europe, which can be classified in six typical models overall;

b. preparation of core concepts for a legal instrument, constituting a total of sixteen “building blocks”;

c. classification of the member states’ current situations regarding regional self-government according to the specific models 1 to 6, thereby giving a completely clear picture of the practical operation, legal nature, extent and consequences of regional self-government at present;

8. Appreciates the decisions taken by the Committee of Ministers on 6 March 2002, which recognise the need for a political decision by the Conference of European Ministers responsible for local and regional government being held in June 2002;

9. In view of the work of the CDLR and the Committee of Ministers, is of the opinion that:

a. models 1 to 4, in particular, are of special importance to the further development of regional self-government in Europe;

b. in the light of the variety of national forms of regional self-government alone, a legal instrument on regional self-government allowing flexible implementation is needed;

c. the core concepts of a legal instrument on regional self-government, as proposed in the Congress’s draft charter of 1997, should correspond as closely as possible to the core concepts of regional self-government laid down in the work of the CDLR;

10. Is none the less convinced:

a. that the adoption of the draft European charter of regional self-government in the form of a convention would comply with the request of the Congress made in 1994 in Resolution 8 to prepare a European charter of regional autonomy along the lines of the European Charter of Local Self-Government, which was itself adopted as a convention;

b. that a convention leaves member states entirely free to sign and ratify it or, in the light of their own system of regional government, to give preference to passing individual national legislation outside the European legal framework;

c. that a convention none the less guarantees the legal flexibility necessary to take into account any national particularities, even when adhering to a single European legal framework, as can be seen, in particular, from the articles in respect of which the draft text permits reservations;

d. that, conversely, a recommendation by the Council of Europe would, on account of the need for unanimity, give rise to an agreement reduced to the lowest common denominator, which would not be suited to the dynamic of the regionalisation process in Europe;

11. In these circumstances, deems it necessary that the member states of the Council of Europe give clear recognition to the importance of regional self-government and to its core principles, on the basis of the draft European charter of regional self-government adopted by the Congress in 1997, and therefore:

a. upholds its Recommendation 34 of 5 June 1997 which invites the Committee of Ministers to examine the draft European charter of regional self-government with a view to the future adoption of the draft charter in the form of a convention,

b. considers it still possible, in the light of the full information that has become available in the meantime, for the Council of Europe to adopt a final position before the next plenary session of the Congress in 2003;

12. Accordingly calls on all members of the Congress to take the following steps before the forthcoming ministerial conference in Helsinki on 27 and 28 June 2002:

a. inform their member states’ ministers responsible for local and regional affairs of the Congress’s unanimous wish, backed by the Parliamentary Assembly, that the draft European charter of regional self-government be adopted as a Council of Europe convention and request them to take a stance along these lines when representing their country at the conference;

b. inform their national parliaments’ representatives in the Parliamentary Assembly and ask them to support the Congress’s position;

13. Requests its President:

a. to transmit the present resolution to the President of the 13th Conference of European Ministers responsible for Local and Regional Government which will meet in Helsinki on 27 and 28 June 2002 in order to have it distributed to invited delegations as a contribution of the Congress to the conference;

b. to defend the Congress’s position in his statement to the ministerial conference in Helsinki;

c. to supply all relevant information to the Parliamentary Assembly of the Council of Europe, in advance of the ministerial conference in Helsinki, and request it to support the Congress’s position;

d. to inform the Congress at its mini-session in autumn 2002 of the results of the ministerial conference and the consequences for the future of the draft European charter of regional self-government.

1. Debated and approved by the Chamber of Regions on 5 June 2002 and adopted by the Standing Committee of the Congress on 6 June 2002 (see Doc. CPR (9) 6, draft resolution presented by Mr P. Rabe, rapporteur).