

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Recommendation 385 (2016)¹ Autonomy and borders in an evolving Europe Principles, frameworks and procedures for protecting and modifying status, competences and borders of sub-national entities within domestic law

1. Changes of borders have been a recurring phenomenon in Europe throughout its history. Most often, such changes have occurred as a result of wars, whether through conquest or as a result of international conferences. From the Second World War until the fall of the Berlin Wall, however, Europe experienced an unprecedented period of territorial stability.

2. Since 1989, there have been substantial changes to the territorial organisation of Europe and the pace of change shows no sign of slowing. National and sub-national boundaries continue to be redrawn, often with scant regard for the wishes of the populations concerned. Despite this year's celebrations of "70 years of peace in Europe", the threat of violent conflict in the European area and threats of recentralisation and financial cuts in the wake of the economic and financial crisis are endangering meaningful sub-national autonomous governance.

3. Respect for the rule of law, the territorial integrity and national sovereignty of States and good neighbourly relations are the basic principles underpinning all European intergovernmental co-operation. These principles are a prerequisite for any changes to boundaries and autonomy statutes that are sought by member States.

4. While the Council of Europe has made great progress in developing its standard-setting competences in the field of human rights and the rule of law, it has had less success in promoting democratic and participatory or inclusive methods of territorial reorganisation as a means of resolving tensions between its increasingly diverse populations.

5. A pluralist democracy should not only respect the ethnic, cultural, linguistic and religious identity of individuals and groups, but also create appropriate conditions enabling them to express, preserve and develop these identities.

6. The manner in which changes of status, competencies and boundaries can be introduced and negotiated needs to be entrenched in legal and constitutional guarantees. Any changes must be introduced transparently, with due process, free from unconstitutional and undemocratic pressures, through sustained political dialogue between central governments, sub-national authorities and all those concerned.

7. The Congress therefore, bearing in mind:

a. the preamble and Article 1 of the Statute of the Council of Europe (ETS No. 1);

b. the Council of Europe Reference Framework for Regional Democracy;

c. the Vienna Declaration of the Heads of State and Government of the member States of the Council of Europe (1993);

d. Recommendation No. R (96) 2 of the Committee of Ministers to Member States on referendums and popular initiatives at local level;

8. Concerned at the increasing resort to violent, undemocratic and sometimes military means for redrawing boundaries and changing the territorial organisation of member States,

9. Calls upon the member States of the Council of Europe to:

a. continue to reaffirm and promote peaceful and constitutional solutions to disputes about territory;

b. ensure that any changes to the competencies and financial resources of sub-national entities are introduced following pre-established procedures and guarantees;

c. refrain from changing the boundaries and territorial status of sub-national entities without prior consultation of the population;

d. ensure that regular procedures of dialogue between central governments and sub-national entities are fully developed, in order to maximise political accountability and avoid unnecessary recourse to judicial means in order to solve territorial disputes;

10. Calls on the Committee of Ministers to:

a. reaffirm its support for the principles of the Council of Europe Reference Framework for Regional Democracy, in particular the principles of mutual loyalty and equal dignity, and for other Council of Europe instruments relevant for providing guidance to member States on issues of sub-national autonomy;

b. encourage debate and discussion on these subjects within its midst, underlining its availability to participate in such discussions should this be considered appropriate;

c. continue to promote the peaceful settlement of such disputes among its members;

d. continue to support the work of the European Commission for Democracy through Law (Venice Commission) and the Congress in their work to promote appropriate legal and constitutional solutions for sub-national territorial issues.

1. Debated and approved by the Chamber of Regions on 23 March 2016 and adopted by the Congress on 24 March 2016, 3rd Sitting (see Document CPR30(2016)02-final, explanatory memorandum), rapporteur: Karl-Heinz Lambertz, Belgium (R, SOC).