

For debate in the Standing Committee
Pour débat à la Commission Permanente
See Rule 12 (4) (5) - Voir article 12 (4) (5) du Règlement*



Congress of Local and Regional Authorities of Europe

Congrès des pouvoirs locaux et régionaux de l'Europe

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Part II

FIFTH SESSION

OPINION OF THE CLRAE ON THE COMMITTEE OF WISE PERSONS REPORT TO THE COMMITTEE OF MINISTERS, "BUILDING GREATER EUROPE WITHOUT DIVIDING LINES"

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EXPLANATORY MEMORANDUM

* Objections to the Standing Committee procedure must reach the Head of the Congress Secretariat a clear week before the meeting of the Standing Committee ; if 5 members object, the report will be submitted to the Plenary Session.

Les éventuelles objections à l'examen en Commission Permanente doivent parvenir au Chef du Secrétariat du Congrès une semaine avant la réunion de la Commission Permanente ; si 5 membres du Congrès présentent des objections, le rapport sera soumis à la session plénière.

I. PREFACE

1. After the 2nd Summit of Council of Europe Heads of State and Government, at Strasbourg in October 1997, the Committee of Ministers set up a Committee of Wise Persons, chaired by the former Portuguese president, Mario Soares, to report on the structural reform needed to adapt the Council to its new functions and larger membership and improve its decision making. On 24 April 1998 the Committee of Wise Persons held a hearing of the Congress of Local and Regional Authorities of Europe (CLRAE) Bureau (the then President Claude Haegi, the First Vice-President of the Chamber of Local Authorities Alain Chénard and, representing the Chamber of Regions, Vassiliy Likhatchev of the Russian Federation). Two Committee of Wise Persons working parties were also addressed by Rinaldo Locatelli, head of the CLRAE secretariat, and Ferdinando Albanese, the then Director of Environment and Local Authorities. The Congress itself submitted a written contribution to the Committee of Wise Persons deliberations [Resolution 61 (1998) + CG/BUR (4) 101 confidential].
2. The Committee of Wise Persons report was submitted to the Committee of Ministers at its session on 4 November 1998. The Committee of Ministers decided to forward the final report to the Congress and invited the Congress to draw up an opinion on the report on questions within its field of competence. The invitation was extended in a letter from the Chair of the Ministers' Deputies, Janos Perenyi, dated 16 November 1998 (see appendix).
3. The President of the Congress, Alain Chénard, replied to the letter on 8 January 1999 (see appendix) (on 21 December 1998 the Congress Bureau had instructed rapporteurs Van Cauwenberghe and Skard to prepare the opinion as the question was closely linked to that of revising the Charter of the Congress). A meeting with the Ministers' Deputies is scheduled for 3 March 1999. The Standing Committee is due to adopt the opinion on the Wise Persons report on 4 March 1999 so that the working party on the Wise Persons, chaired by United Kingdom Permanent Representative Andrew Carter, can take it into account in preparing the report on action on the Wise Persons report which the Deputies will be submitting to the 104th Committee of Ministers session, in May 1999.
4. The present opinion will confine itself to a number of general Congress observations on the Wise Persons findings. More detailed Congress recommendations on revising the Charter of the Congress will be made in a report which the same rapporteurs are submitting to the 6th plenary session of the Congress (15-17 June 1999)¹ in view of the year 2000 time-limit for decisions which the Committee of Ministers has to take on certain Charter revision matters: the Charter of the Congress was adopted by the Committee of Ministers in January 1994 following the First Summit of Heads of State and Government, in Vienna in 1993, and the Charter was accompanied by a number of transitional provisions to be reviewed after six years in the light of experience. Thus the Charter contained an instruction to the Committee of Ministers to review it by the year 2000. It had already been Congress's intention to make proposals to the Committee of Ministers on those provisions. The Committee of Wise Persons report is highly opportune, expressing views on matters of Charter reform which can be combined with the Congress's work on the subject (see section II for more details).

¹ Under the Rules of Procedure, proposals to amend the Charter are a matter solely for the plenary Congress.

II. SPECIFIC PROPOSALS ON CLRAE STRUCTURE

5. The proposals are in paragraphs 53 to 56 of the Wise Persons report.
6. **Secretariat**
The first point concerns the CLRAE secretariat. Here, two ideas are put forward. On the one hand the Wise Persons think the CLRAE secretariat's position within the Council of Europe needs reinforcing. This conflicts with recent budget proposals in which only three temporary posts of secretary were made permanent after the Congress had asked for 7½. Admittedly the reason given for refusing to make the other 4½ posts permanent, which would not have entailed any budget increase, was the need to reorganise Council of Europe services so that posts could be redeployed to the Congress from sectors which were lower priorities. The Congress therefore insists on staff being redeployed to it in the near future. Unless that is done, the Wise Persons' findings on reinforcement of the Congress's position cannot possibly be put into effect.
7. The second proposal concerning the secretariat is Congress election of a head of secretariat. The Congress welcomes this idea, which is in line with its own wishes. It intends making more detailed proposals on the matter in the recommendation on reform of the Charter of the Congress which the 6th session (15-17 June 1999) will be sending the Committee of Ministers with a view to implementing the Charter reform by the spring 2000 session.
8. **Consultation**
The Wise Persons wanted to see wider consultation by the Committee of Ministers on issues falling within the responsibilities of local and/or regional authorities. The Congress and its Chambers welcome that proposal while regretting that there is not a similar proposal concerning relations between the Congress and the Parliamentary Assembly. For more detailed comment, see section III below.
9. **Budget**
The Congress has long wanted to be allowed greater flexibility in managing its own finances. The Wise Persons share that concern. That flexibility has largely been achieved by bringing all Congress expenditure under Vote V, including expenditure on staff. In addition the package over which the Congress has actual control has been extended in the 1999 budget. Essentially, therefore, there remain the problem of the inadequacy of the sums allocated to the Congress, which will not allow it to meet all its new responsibilities, and the improvements needed to the procedure for preparing the budget, on which the Congress will be making proposals in its recommendation concerning revision of the Charter.
10. The Congress likewise regrets that the 1999 reshaping of the budget, even though it meets a good many of the Congress's concerns, did not allow the appropriations for Congress co-operation with central and eastern Europe to be brought under Vote V. Those appropriations continue to appear in Vote IX, as Sub-head 9202. This is very different from the practice for the Parliamentary Assembly, whose appropriations for that work appear in Vote III of the budget (Head 3.4). The Congress accordingly requests that its appropriations be transferred from Vote IX to Vote V in the year 2000 budget.

11. The Congress would also take this opportunity to point out that the arrangements for meeting Congress members' expenses are out of tune with realities. Firstly, for purposes of reimbursement of expenses, Congress members are still being treated as consultants even though a review is under way regarding official journeys by Congress members to represent Congress away from Strasbourg. The Congress repeats its request for more generous official-journey expenses and that Congress members be treated separately from government experts and placed on a similar footing to members of the Parliamentary Assembly or European Court of Human Rights.
12. Secondly the calculation method should be reconsidered and a special procedure introduced for Congress members: the method used was mainly designed for travel to and from capital cities or main towns and cities, whereas Congress members, as actually required by Article 2 (2) (a) of the Charter, are appointed in such a way as to ensure a balanced geographical distribution across a member state's territory, which in some cases is huge. This means that the method does not take proper account of the actual expenditure, which can be very large, incurred by members travelling from outlying regions. The procedure for calculating compensation for Congress members' travel time accordingly needs reviewing.

13. **Structure**

The Committee of Wise Persons wants the Congress to reconsider its structure and methods with a view to more active involvement of the Deputies in its activities. This accords perfectly with the objectives which the Congress has set itself: thinking on revision of the Charter is that a limited number of statutory committees should be created and a second annual session introduced. There are two aims here, concerning the Congress's external action and its internal development. Externally, the Congress is keen to assert itself more in political debate within the Organisation (on matters relevant to it) and to be able, with more frequent statutory meetings, to react more promptly on topical issues. Internally, it is important to have bodies which involve all the members and substitutes more in the Congress's work all year round and thus in the work of the Council of Europe as a whole.

The Congress's proposals here will be set out in more detail in the recommendation on revision of the Charter and are aimed at precisely this greater participation of all Congress members.

14. However, even now it is clear that the Congress cannot but disagree with the Wise Persons' statement that "the ensuing changes should not entail additional costs to the Organisation". Even though, by economising here and there within its present system of expenditure, the Congress and its Chambers are determined to make as many savings as possible so that the organisational changes, and in particular the second annual session, do not cause undue financial strain, the changes cannot be made on a zero-growth budget. The cost of an annual session, both financially and in staffing terms, is around 3,500,000 FF, which cannot possibly be found entirely from the Congress's present budget. An evaluation of the cost, and of the savings which other reorganisational measures can achieve, is being carried out so that the Congress can make detailed proposals in this connection for the year 2000 budget.

III. SYNERGY BETWEEN THE COUNCIL OF EUROPE'S BODIES

15. The terms of reference from the Ministers' Deputies to the Committee of Wise Persons referred, in particular, to "improving the Organisation's working methods and the synergy between its various bodies: the Committee of Ministers (including its subsidiary bodies), the Parliamentary Assembly and the CLRAE" (terms of reference - decision 3.b of the 613th meeting of the Ministers' Deputies, December 1997, item 1.4). In some parts of its work the Committee of Wise Persons has had full regard to those instructions. This is particularly true of paragraph 70, which deals with the procedures for monitoring member states' honouring of their commitments and which points out that the procedures of the various bodies (including - in its specific field of competence - the Congress) complement one another. Similarly the Wise Persons stress wider consultation of the Congress by the Committee of Ministers on matters falling under the responsibilities of local and/or regional authorities (paragraph 54 of the report, and also in the main recommendations (page 8)).
16. On the other hand the report says nothing about improving consultation of the Congress by the Parliamentary Assembly. And yet this would also have been covered by the terms of reference, as well as Article 2 (2) of Statutory Resolution (94) 3 on setting up the Congress of Local and Regional Authorities of Europe, which states: "The Committee of Ministers and the Parliamentary Assembly shall consult the CLRAE on issues which are likely to affect the responsibilities and essential interests of the local and regional authorities which the CLRAE represents".
17. In relations with the **Committee of Ministers** there has already been an appreciable improvement in recent years even though there is room for further progress. In this connection it is worth drawing attention to Congress Resolution 61 (1998), which requests, among other things, wider consultation going beyond the work of the Steering Committee on Local and Regional Democracy, expansion of the bilateral co-ordination meetings between the Congress Bureau and the Ministers' Deputies, increased participation of the Congress presidency in meetings of the Ministers' Deputies, improved representation and participation of the Congress in steering committees and at specialist ministerial conferences (with "participant" rather than "observer" status) and more effective Congress involvement in the action plan agreed by the Heads of State and Government.
18. In relations with the **Parliamentary Assembly** there is certainly regular contact between the two presidents and regular consultation and close co-operation between the Congress and the Committee on the Environment, Regional Planning and Local Authorities. On the other hand, the Congress would have liked (see, in particular, Resolution 61 (1998)) wider consultation by the Assembly on matters for which local and/or regional authorities are competent, invitation of Congress members to the Standing Committee and the Assembly's Environment Committee, invitation of the President of the Congress - where appropriate - to meetings of the Assembly Bureau and at least one opportunity for the President of the Congress to address the full Parliamentary Assembly in his/her two-year term of office.
19. Neither the Committee of Wise Persons report nor the Parliamentary Assembly opinion raises these matters, which should accordingly be taken up again with the Parliamentary Assembly presidency in the near future.

20. The area where the Congress most regrets the lack of any stance by the Wise Persons is **Committee of Ministers - Parliamentary Assembly** co-ordination, in which the Congress should be associated when questions affecting local and/or regional authorities are involved. In this area Resolution 61 (1998) made two proposals: a tripartite meeting once a year between the Committee of Ministers, the Parliamentary Assembly and the Congress and/or invitation of the Congress President to meetings of the **Joint Committee**. The President could attend these in an observer capacity but be allowed to speak on matters of concern to local and/or regional authorities. The Congress has no desire to add to the business load of Joint Committee meetings, which take place around six times a year and time for which is generally very short. On the other hand it would seem appropriate for the Congress to be represented at these meetings - at which both the Committee of Ministers and the Parliamentary Assembly tend to have a large number of representatives - at least by the "troika" of its three presidents (the President of the Congress and the presidents of the two chambers). As well as raising the Congress profile this would enable the Congress to keep abreast of the Organisation's main activities. Without interfering with the Joint Committee's workings, it would also allow the Congress to comment from time to time on subjects discussed which closely affected local and/or regional authorities. Obviously, however, the Congress is not demanding voting rights in the Joint Committee. It accordingly requests the Ministers' Deputies to consider these matters further in examining the Committee of Wise Persons report. Congress participation in Committee of Ministers-Parliamentary Assembly consultation could, if appropriate, be established in the Statutory Resolution which the Parliamentary Assembly would like to see clarify relations between the Council of Europe's two main organs.

IV. GENERAL MATTERS OF CONCERN TO THE CONGRESS

21. The Congress's role within the Council of Europe

The Congress cannot but be pleased with a number of the findings of the Committee of Wise Persons in section I.2. ("The specificity of the Organisation's internal structures and functioning"). Immediately after its remarks about the Parliamentary Assembly, the Committee of Wise Persons states: "... the Congress of Local and Regional Authorities of Europe (CLRAE) has become, in its sphere of competence, an important contributor to democratic developments at local and regional level and associates them with the process of European construction" (paragraph 22). It thus clearly locates (end of the same paragraph) the Congress as part of the parliamentary pillar of the three-pillar structure which the Council of Europe now has and which the Committee of Wise Persons wants to see further developed. Unsurprisingly, therefore, the Wise Persons see the Congress (paragraph 23) as helping guarantee a stability of values and standards "essential for promoting and monitoring the Organisation's values, principles and standards throughout Europe". They accordingly call for a strengthening of the CLRAE, which they acknowledge as playing an important part within its sphere of competence for the benefit of the Organisation as a whole (paragraph 24).

22. European Union

The same section of the report refers to the European Union. The CLRAE regrets, here, that the report does not mention the development and intensification of co-operation between the CLRAE and the European Union Committee of the Regions. The two bodies were created at the same time, the Congress under a resolution of January 1994, the Committee of the Regions under the Maastricht Treaty. Their

functions are of course different, but excellent co-operation has developed and has led to setting up a liaison committee and, recently, to a meeting between the two chairs, Mr Chénard and Mr Dammeyer. This co-operation should also help disseminate the European Charter of Local Self-Government and other Council of Europe instruments.

23. In this connection, the Congress would also have liked some reference to the Local Democracy Agencies which the Congress has been developing in the countries of the former Yugoslavia for the last six years. The agencies have often received considerable financial support from the European Union and it would have been appropriate to mention the co-operation in the report.
24. The Congress welcomes the reference to the Council of Europe - European Union partnership programmes. It has several times noted with regret that development of local democracy, though an essential ingredient of democratic stability, did not feature, or featured only inadequately, in co-operation programmes developed in recent years with the European Union. This particularly applies in connection with countries such as Albania and Georgia.
25. **OSCE**
The same section deals with relations between the Council of Europe and the OSCE. Here again, a reference to the Congress's work would have been helpful, particularly as paragraph 38 refers to observation of elections. The Congress has often been called upon to observe local or regional elections in member or applicant states. Again, it regularly reports on the state of local and regional democracy in member or applicant countries. In every case, Congress teams visiting the countries concerned work very closely with the on-the-spot OSCE delegations. In some matters (such as the Roma or local issues regarding minorities), the Congress also has occasion to work with the OSCE High Commissioner on National Minorities or with ODIHR (Warsaw). The Congress can make a distinctive contribution to Council of Europe co-operation with OSCE since OSCE has no equivalent body.
26. **Secretary General**
In the section devoted to the Secretary General reference could have been made to the practice whereby the Secretary General makes a short progress report to each plenary session of the Congress, the report being followed by a debate. The Congress welcomes that practice and would like it to be officially recognised.
27. **The "Venice Commission"**
The Congress was pleased to see the Commission for Democracy through Law (the "Venice Commission") get a section of its own. It would point out in this connection that it has established excellent co-operation with the "Venice Commission", in particular in the work on national constitutions (those parts of them dealing with local and regional democracy), the work on drawing up statutes (in Kosovo, for instance) and the co-operation on some draft legislation. The close co-operation between the "Venice Commission" and the Congress likewise deserves to be put on an official footing. That co-operation has in fact received recognition in the "Venice Commission's" rules of procedure.
28. **European Social Development Fund**
The Congress is also keen to step up relations with the European Social Development Fund, for the fund is able to lend to projects mounted by local and regional authorities. Unfortunately there is not enough awareness of that possibility and

consequently too little use is made of it. There could be fruitful co-operation between the Social Development Fund and the Congress in support of social cohesion, employment and communal wellbeing.

29. **Monitoring of commitments**

In section II.3 ("Monitoring the compliance of member states with their commitments" - described in paragraph 8 as the Organisation's "overriding priority") a lengthy paragraph is devoted to complementarity and transparency of procedures. The Congress is glad to see that it is referred to in this paragraph (paragraph 70) in connection with its specific field of competence: in accordance with the explanatory report to the European Charter of Local Self-Government, the Congress keeps an eye on states parties' implementation of the charter. It also produces regular reports on the state of local and regional democracy in the member countries and in countries which have applied for Council of Europe membership. It is pleased to see the Parliamentary Assembly regularly taking its findings into consideration in its own monitoring of member states' compliance with undertakings or when an Assembly opinion is being prepared on a country's admission to the Council.

30. In the Congress's view it is also important for member states to account - either at plenary sessions or the "mini-sessions" - for implementation of Congress recommendations. The Congress is also pleased that recently admitted countries have undertaken to sign and ratify the European Charter of Local Self-Government and European Charter on Regional for Minority Languages.

31. The Committee of Wise Persons rightly acknowledges the complementarity of the various monitoring procedures (paragraph 70). In practice, too, the Parliamentary Assembly often takes an interest in the Congress's findings when problems of local and regional democracy arise in a country. In the recent procedure on member countries' observance of their undertakings with regard to local democracy, the Committee of Ministers likewise gave prominence to the Congress's work. In particular, during the exercise the Committee of Ministers invited the Congress, "in view of its Resolution 31 (1996), to continue its work on the preparation of country-by-country reports on the situation of local and regional democracy in all the member States". It also invited the Congress to "step up its efforts to ensure that the principles of the European Charter of Local Self-Government are observed effectively by all the member States" (650th meeting, item 2.4.b.). In the same decision the Committee of Ministers agreed that activities under the ADACS programme must take into account the results of Congress of monitoring of compliance with undertakings. All this is very much in line with the Congress's wishes. In recent years the Congress has devoted a large part of its work to monitoring local and regional democracy in applicant and member states.

32. **Minorities**

The Congress likewise welcomes the explicit reference to the European Charter for Regional or Minority Languages (paragraph 15). The charter, adopted in 1992 on the basis of the Congress's proposals, is now one of the Organisation's basic conventions.

33. **Council of Europe visibility**

The Congress can likewise support the appeal, in section I, paragraph 3, for better co-ordination and co-operation, in national capitals, between those responsible for allocating tasks to the different European organisations. This seems to go hand in hand with the proposal, in paragraph 77 of the report, on use of new information technology and of existing networks, among which the CLRAE is specifically cited.

The paragraph calls, in particular (5th subsection), for national conferences on the Council of Europe and asks the CLRAE to take an active part in them. The Congress very much supports that idea, which would give elected representatives sitting on Council of Europe bodies an opportunity to publicise their European work at national level and provide a link between national networks and Council of Europe action in fields including that of local and regional authorities.

34. One of the Wise Persons' main concerns is (section II.4) to improve the Council of Europe's visibility. The Congress attaches great importance to that. Quite a few of its instruments, such as the European Urban Charter and the Charter on Youth Participation are partly directed to that end, as is Congress participation in many Council of Europe campaigns. The hundreds of national and international local and regional authority associations, the towns with populations over 30,000 and the towns in special categories (historic towns, Mediterranean towns, border towns, etc) constitute huge networks which are an important asset in that context. At the same time the Congress has developed modern communication technology, in particular a website containing full information on its main work, ranging from adopted texts to current issues and press releases. The Congress also publishes a regular newsletter on all its activities in its five working languages. It accordingly supports the Wise Persons' proposal (paragraph 10 of the report) to publish main texts in non-official languages so as to raise the Organisation's profile. This is essential if the message is to get through to networks of local and regional authorities and NGOs.
35. The Congress intends developing all aspects of this policy, something which cannot be done without the necessary resources, whether financial or manpower ones.
36. It also approves of developing the Council of Europe documentation and information centres (paragraph 77 of the Wise Persons report and paragraph 22 of the Schieder report). In particular it welcomes the current trend of establishing centres in towns other than national capitals. In appropriate cases, synergy could be developed with the Local Democracy Agencies.
37. **Budget**
With regard to financial resources, the Congress is very aware of the limits which capping the Organisation's budget – this in a period of continuing growth - has placed on its ambitions in recent years. It therefore endorses the concerns expressed by the Wise Persons in paragraphs 80 and 81 of the report, which identify some avenues which could be explored in order to put the Council of Europe on a sounder financial footing. This is something the Congress cannot but support. Unless clear financial prospects are developed for the Organisation, the major principles cited at the Strasbourg Summit, such as giving full support to the Council of Europe with a view to intensifying its contribution to cohesion, stability and security in Europe, will remain so many empty words.

V. **FINAL REMARKS**

38. The Congress hopes that the Deputies will heed the above observations in the report which they will be sending the Committee of Ministers on action on the Committee of Wise Persons recommendations. As regards revision of the Charter of the Congress, a matter which impinges on most of the proposals made in paragraphs 53 to 56, the Congress would like the issues to be debated in more detail in the context of the

charter revision proposals it intends putting forward at its 6th session (15-17 June 1999).

39. More widely, the Congress has studied the Opinion no. 208 which the Parliamentary Assembly delivered on the Committee of Wise Persons report at its January 1999 session, on the basis of the Schieder report [Doc. 8286]. The Congress shares the concerns expressed there.
40. In particular it wonders whether the Wise Persons went far enough in their thinking about the future of European institutions, where there is an evident danger of the Council of Europe's having to pick up the crumbs left by the European Union and the OSCE, to which governments at present appear to attach greater priority. That tendency is regrettable, particularly as the Congress is aware - while acknowledging the extremely important role of the European Union Committee of the Regions - that it is performing a unique function in associating Greater Europe's local and regional authorities in the process of Greater European construction.
41. Within its field of competence - which derives from the responsibilities of local and regional authorities in the member states - the Congress intends making a major contribution to such priority fields of Council of Europe action as democracy and human rights, social cohesion, safety of the population, democratic values and cultural diversity in Europe. In all these fields the Congress is keen to shoulder its share of responsibility in order to work for greater democratic stability in tomorrow's Europe by promoting local and regional democracy and co-operation between local and regional authorities.