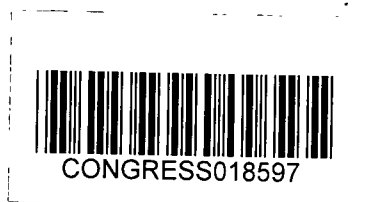


Council of Europe  
Conseil de l'Europe



Congress of Local and Regional Authorities of Europe  
Congrès des pouvoirs locaux et régionaux de l'Europe

Strasbourg, 7 March 1996  
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CG (2) 22  
Part II

**SECOND SESSION**

**GUIDELINES FOR REVIEWING THE OFFICIAL PROCEDURES  
FOR APPOINTING NATIONAL AND SPECIAL GUEST DELEGATIONS  
TO THE CLRAE**

**Rapporteurs: Mr Chénard (France) and Lady Farrington (United Kingdom)**

**EXPLANATORY MEMORANDUM**

502  
96/879  
~~95/4599~~  
For debate in the Standing Committee  
Pour débat à la Commission Permanente  
\*See Rule 12 (4) - Voir article 12 (4) du Règlement\*

\* 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.

## Background

The Committee of Ministers of the Council of Europe adopted Statutory Resolution 94 (3) on establishing the Congress of Local and Regional Authorities of Europe on 14 January 1994.

Under Article 3 of the Charter of the CLRAE, "representatives and substitutes to the CLRAE shall be appointed by an official procedure specific to each member state (...). Such a procedure shall be approved by the CLRAE in conformity with the principles contained in its rules of procedure".

Yet obviously the CLRAE could not possibly approve such procedures before it met in plenary for the first time, in June 1994. To solve this problem, the following transitory provision was written into the Charter:

"2. In preparation for the first plenary session of the CLRAE, the procedures allowed for in Article 3, paragraph 1, shall be adopted by the Committee of Ministers."

As a consequence, the CLRAE has not yet been able to verify these procedures. However, it has expressed its wish to do so on the occasion of its next plenary session, which is to be held in July 1996. This is the right timing as two years have gone by since the first plenary and consequently all national delegations must be renewed before the July session.

Furthermore, under Article 12 of the Charter "the CLRAE and its Chambers shall adopt their own rules of procedure". Indeed this they have done. But when it comes to verifying the procedures for appointing delegations, the Rules often refer to the Charter's own criteria. In other words, the Congress has not yet developed the "specific principles" to which Article 3 above refers.

In order to pave the way for this revision of procedures, the Bureau of the CLRAE asked Lady Josephine Farrington and Mr Alain Chénard to look into the matter and make proposals regarding the principles that should apply to it. Their preliminary report was discussed by the Standing Committee of the CLRAE on November 21st, 1995. The Standing Committee asked the rapporteurs to submit a new report to the Bureau in December.

The Rapporteurs submitted a second report to the Bureau on 21 December 1995. Such report took into account the decisions made by the Standing Committee and reflected the points of view expressed by its members. It consisted of two parts: this explanatory memorandum and a separate section which contains the proposed amendments to the CLRAE rules of procedure.

The Bureau adopted the second report and decided to submit it to the Standing Committee in Spring to seek its final approval of the amendments proposed. If it does adopt them, on behalf of the CLRAE, some of the guidelines defined in this report will cease to be the expression of a political agreement and will turn into legally binding rules. As such, they might already apply at the next plenary session.

In the meantime, following the Standing Committee's instructions, the Bureau has circulated this report to all national and special guest delegations as well as to their respective Governments, so that they can start adapting their procedures to the new guidelines.

## **Article 2 - Persons directly responsible to an elected body**

Article 2 of the CLRAE Charter lays down the criteria all delegates have to fulfil in order to be eligible for membership.

### **"Article 2**

- "1. The CLRAE shall be composed of representatives who shall be chosen from among holders of a local or regional authority electoral mandate or of a mandate as a person directly responsible to an elected local or regional body."

Article 2 therefore establishes two possible criteria. The Bureau of the CLRAE, like its Standing Committee, does not, however, view them as alternative possibilities. On the contrary, the first one - holding an electoral mandate - should be regarded as the main criterion for membership. The Bureau regards the second one - being directly responsible to an elected body - as a marginal criterion which was included in the Charter to take account of some peculiar situations found in some member countries (such as the cases of Dutch mayors, Deputy Mayors in Italy, members of some regional Governments, or Turkish Governors).

Whilst the Bureau deems this second criterion necessary in order to allow for the diversity of local and regional authorities in our member States, it recommends that its use be limited. Therefore, any member State wishing to make use of this clause should state it in the procedure for appointing the delegation. Furthermore, that State should list and describe the cases that fall within the scope of the clause. Failure to do this should entail the rejection of the procedure by the CLRAE Bureau.

The term "person directly responsible to an elected local or regional body" has given rise to many interpretation problems because of its lack of precision. The term's two elements should be examined separately.

On the one hand, by "elected local or regional body" the CLRAE understands an executive body or a political assembly made up of the people's elected representatives, which is a statutory body of a public local or regional authority. In other words, it means city councils or regional parliaments. Therefore, representatives of the general assembly of an association of local or regional authorities who do not themselves hold an electoral mandate cannot be admitted under this clause.

As to the term "directly responsible", it intends to describe delegates who, in practice,

- i depend on the political trust of an elected body or whose mandate can be revoked by such an organ, and who
- ii have the right to participate in a political decision-making body as a full member.

A discerning criterion, in the case of a member of the executive, is whether a political assembly can force him to resign. In the case of members of a regional government who do not have a minister's rank, a decree must state clearly that they are members of the executive.

## **Membership of the Chamber of Regions**

Under Transitory Provision nr 1 of the Charter, "on a temporary basis, states which do not possess regional authorities, that is authorities of a level immediately below national governmental level which have their own attributions and elected organs, may appoint to the Chamber of Regions representatives of bodies of the same level, made up, on a regional basis, of elected representatives of local authorities or of regional associations of local authorities. This provision shall be re-examined after a six-year period."

This has been a controversial rule, and some members of the Chamber of Regions have called for it to be implemented strictly. Some have even asked for the transitory period to be shortened to three years. Yet it should be borne in mind that, although this rule applies to all member states which do not possess a regional tier, it was included to take into account the special situation of some Central and Eastern European member countries which are currently reviewing the structure of their territorial administration. Some of them have not yet reached a conclusion. The Bureau therefore takes the view that the rule should stay as is in order not to rush things. Furthermore, from a legal point of view, cutting the transitory period down to three years would require a formal amendment of our Charter, which is a complex legal procedure indeed.

There is another criterion which should be taken into account. It is the so-called "broad" interpretation of Transitory Provision nr 1 adopted by the Committee of Ministers, which allows small states (such as Luxembourg) to send representatives to the Chamber of Regions. As there are no regional associations of local authorities in these countries, the Committee of Ministers accepted to broaden the rule in order to let in delegates who belong to a national, not regional, association. Many of them are indeed active partners in trans-frontier or inter-regional co-operation programmes. Their local authorities could therefore make a constructive contribution to the Chamber of Regions's activities, and hence the need for a generous interpretation of the rule.

As said, the Bureau takes the view that this Transitory Provision should stay, and should like to give its own "broad" interpretation (see below). In other words, the Bureau would be inclined to admit the following categories of authorities to the Chamber of Regions.

- 1 The large majority of members of the Chamber should represent directly elected regional authorities (ie immediately under the state level). Such authorities should have their own set of responsibilities and powers, their own elected assembly, and an executive body which can be either elected or directly responsible to an elected regional body.
- 2 Secondly, representatives of a regional tier who hold a direct electoral mandate at a local authority or intermediate level.
- 3 Representatives of regional associations of local authorities who hold an electoral mandate at a local authority level.
- 4 Finally, holders of a local authority electoral mandate who are themselves members of a transborder or inter-regional co-operation body. This clause should only apply

to small countries<sup>1</sup> which cannot send any representatives under the first three criteria.

With these open criteria, the Bureau wants to be sensitive to the various political structures existing in Europe so that no-one who can make a positive contribution is excluded from the work of the Chamber of Regions, which by the way should be an ever-evolving assembly. At the same time, however, the Bureau thinks these criteria should be given careful consideration when the six-year rule laid down in Transitory Provision nr 1 comes to an end. Until then, the working group on regionalisation set up by the Chamber of Regions could take stock of the number of countries applying the above-mentioned criteria. The group's rapporteur could thus follow up the evolution in the Chamber's membership.

### **Consultation of associations**

The Charter does not specify whether a Government should consult the associations of local and regional authorities in order to set up the country's delegation to the CLRAE. Should consultation then become compulsory? The Bureau thinks that such a consultation should remain a target rather than become a rule. Suffice it to say here that every member state should lay down a clear procedure in order to ensure that its national delegation to the CLRAE has the full confidence of the country's local and regional authorities as people who would best represent them all. This is the principle the Bureau would like to write into the rules of procedure. There are many ways in which such a balance can be attained. Consultation is one of them, but it should not be made compulsory.

### **Other criteria**

Article 2 of the Charter lays down a number of additional criteria that all delegations should meet. They are:

- "(a) a balanced geographical distribution of representatives from the member state's territory;
- "(b) equitable representation of the various types of local and regional authorities in the member state;
- "(c) equitable representation of the various political forces on the statutory bodies of local and regional authorities in the member state;
- "(d) equitable representation of women and men on the statutory bodies of local and regional authorities in the member states;"

The Bureau regards the first two criteria as straightforward enough and easy to verify, and therefore concludes that they should not be developed into additional rules. The question is whether principles (c) and (d) should.

At any rate, and in order to underline their importance, all of the above criteria should be listed under Rule 2 of the CLRAE rules of procedure, which at present makes a mere cross-reference to Article 2 of the Charter.

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<sup>1</sup> As a rule of thumb, the Bureau understands that small countries are those whose population is under one million inhabitants.

### **Equitable representation of political forces**

Article 2.2 (c) calls on national delegations to observe a certain balance between the political forces present on the statutory bodies of local and regional authorities. The Bureau certainly looks forward to seeing from national delegations that their list is politically balanced, but it does not deem it necessary to establish a quota or percentage system. The principle is that the balance of political forces present in the delegation should be acceptable to the delegation itself, to the country's associations of local and regional authorities, and to its political parties. Furthermore, the Bureau understands that the balance should be between political forces *elected* to local and regional authorities in the member country.

The Bureau is responsible for verifying the compliance of these procedures with the Charter and the rules and regulations. It naturally reserves the right to look into any complaints and decide accordingly.

Lastly, the Bureau proposes that the national delegation should be asked to submit information regarding its members' political affiliation. This will give the Bureau the necessary information to check whether the political balance requirement is met.

### **Equitable representation of men and women**

The aim here should be an equitable representation of women and men which accurately reflects their presence on the statutory bodies of local and regional authorities in the member country. As a means of achieving it the Bureau would like all delegations to try to ensure that, as a minimum, women are represented in the same ratio as they are in their respective country's local authority bodies. For the record, and to keep track of the progress towards this aim, delegations will be asked to submit information regarding the percentage of women elected to local or regional authority office. Where appropriate, delegations should also send information about the percentage of women present in the national associations of local and regional authorities.

### **Future deadlines**

In the past, some national delegations have waited until the eleventh hour to submit information about their composition. This should be avoided in the future, as the Bureau cannot possibly be expected to complete the verification of over thirty-eight procedures and delegations unless it is informed on time. Furthermore, the verification of credentials usually is the subject of a report which is submitted to the plenary session for approval. Under our rules of procedure (Rule 22, paragraph 2) all reports submitted to the plenary - including this one - should be distributed to the delegates at least one month before its opening. As far as the verification of credentials goes, this has hardly ever been the case. The secretariat, too, needs to be informed of the appointment of new delegates more than one month before the session in order to send out all reports to the correct addresses. The Bureau, therefore, would like to implement the following timetable:

**1996**

**NB:** The new guidelines were provisionally approved by the Bureau in December 1995 and sent to all national and special guest delegations and their respective Governments for information in January 1996.

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|------------------|---|
| <b>15 April</b>  | Standing Committee meets in Copenhagen  |
|                  | - Adoption of the guidelines  |
|                  | - Rules of procedure amended to include new guidelines  |
| <b>2 May</b>     | Deadline for member countries and special guests to hand in revised procedures for appointing their delegations to CLRAE <sup>2</sup> . |
| <b>early May</b> | Bureau meets to verify revised procedures   |
| <b>15 May</b>    | Deadline for delegations to submit their composition and for members to submit their credentials  |
| <b>late May</b>  | Bureau meets to verify the composition of delegations and members' credentials  |
| <b>31 May</b>    | Deadline for the Secretariat to mail plenary session documents  |

The Bureau would also like to call on delegations and their members to submit accurate and thorough information. As for latecomers, the Bureau will make arrangements for their taking part in the session until the verification process can be completed. A timely verification has one big advantage, and that is allowing delegations to work efficiently from day one.

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<sup>2</sup> Under CLRAE Rule 2, paragraph 1, "such procedures shall be submitted to the Bureau of the CLRAE for approval two months before the opening of the Plenary Session to which they apply"