

# THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

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## Recommendation 163 (2005)<sup>1</sup> on local and regional democracy in Sweden

The Congress,

1. Having regard to:

a. Article 2, paragraph 3 of Committee of Ministers Statutory Resolution (2000) 1 relating to the Congress of Local and Regional Authorities of Europe;

b. Explanatory memorandum CG (12) 7, Part II, presented by Ian Micallef (EPP/CD, Malta, L) and Karsten Behr (EPP/CD, Germany, R);

2. Thanking the Swedish Government and the Swedish delegation to the Congress for their valuable help and assistance in preparing the above-mentioned report,

### I. Regarding local democracy

the Congress

3. Notes that Sweden is a unitary state with a long history of strong local government involvement in public affairs, and that local government plays an important role in the welfare state system, providing many public services to citizens;

4. Notes with satisfaction that the positive attitude to local government in Sweden is shared by the central government and parliament;

5. Welcomes the fact that Sweden signed and ratified the European Charter of Local Self-Government (hereafter referred to as “the Charter”) as early as 1989, just four years after its promulgation, and that the principle of local self-government is given constitutional and legal recognition in Sweden;

6. Recalls that the provisions of the Charter apply to the Swedish municipalities (*kommuner*) and to the Swedish county councils (*landsting*);

7. Acknowledges that local government in Sweden plays a very important role in the taxation system, since the main form of direct tax paid by most Swedes is the local income tax;

8. Recognises that Swedish legislation, tradition and practice in the area of local government are broadly in line with the spirit and provisions of the Charter;

9. Acknowledges the efforts made by the Swedish national and local authorities to apply the principles underlying the Charter and acknowledges more specifically that several

key articles of the Charter correspond with Swedish legislation (Articles 2, 3, 4.6 and 6);

10. Notes that as regards financial resources, the provision in the Swedish Constitution that states that local authorities have the right to levy taxes corresponds to some extent to Article 9 of the Charter;

11. Welcomes the fact that this was further strengthened in 1993, when the Swedish Parliament, in connection with the introduction of general government grants approved the “funding principle”, which states that the government must explain how a reform is to be financed if it involves new tasks for local authorities (if local authorities have no alternative but to finance the reform by higher taxes, the state must give them financial compensation);

12. Welcomes also the fact that the Swedish Association of Local Authorities and the Swedish Federation of County Councils have always played an active role in promoting local democracy and in protecting the interests of local government;

13. Also draws attention to a number of issues where the implementation of certain provisions of the Charter gives rise to some concern and would like to make a number of recommendations in this respect:

#### a. central regulation of local government (Article 4 of the Charter)

the Congress

i. acknowledges that the Local Government Act (1991) assigns general competence to the local authorities while special laws assign specific competencies to municipalities and/or county councils;

ii. regrets, however, that there has been a tendency to issue a rather detailed specific central regulation on local issues, which may be considered as interference by the central government in local affairs and may provoke reactions on the part of the local authorities;

iii. recommends that the central government give local authorities a greater margin of manoeuvre to carry out their duties, for the benefit of the local population;

#### b. the impact of “rights” legislation (Article 4 of the Charter)

the Congress

i. acknowledges that few would dispute the underlying rationale behind the “rights” legislation which provides for specific social and economic rights of citizens;

ii. considers, however, in this respect that the legislation as promulgated does not create a fair balance between the rights of citizens and the duty of the local authorities to provide services according to priorities in the interest of the community at large;

iii. notes that the legislation itself lacks precision and has imposed financial constraints on the local authorities, who are responsible for implementing citizens’ rights;

iv. questions whether these measures, decided by the national parliament, but administered by the local authorities, conform to Article 9 of the Charter, in terms of the “funding principle”, which states that local authorities should receive adequate financial resources to carry out tasks which are required of them by the central authorities;

v. recommends that the Swedish Government, in consultation with local authorities’ associations, urgently examine this question with a view to finding a means – perhaps an audit commission independent of both the government and the local authorities – of evaluating the actual costs of providing these services and preserving the local authorities’ policy control vis-à-vis the administrative courts;

**c. tax capping (Article 9.4 of the Charter)**

**the Congress**

i. notes that although the constitution and the Local Government Act grant local authorities fiscal autonomy, there are limitations on this autonomy;

ii. notes in particular that although the restrictions on fiscal autonomy of local authorities are not in operation now, they may be reimposed at any point in the future;

iii. recommends clarifying this ambiguity in such a way as to strengthen local fiscal autonomy by giving the local authorities viable fiscal means;

**d. equalisation scheme (Article 9.5 of the Charter)**

**the Congress**

i. notes that although the principle of equalisation is in line with the Charter conflicts may occur with its implementation;

ii. considers that the financial procedures designed to correct the effects of differences in income and expenditure between local authorities should not diminish the discretion local authorities may exercise within their own sphere of responsibility, and therefore that such funding should come from central government;

iii. recommends examining the system of equalisation with a view to reducing the infringement of local authorities’ discretion over their own levied resources, while retaining the principle of equalisation;

**e. shift from general grants to ear-marked grants (Article 9.7 of the Charter)**

**the Congress**

i. regrets that in recent years the Swedish Government increased the amount of ear-marked grants compared to general grants, noting at the same time that if the government’s announced proposals are approved, there will be in the next few years a reduction in the proportion of central government grants allocated for specific purposes;

ii. recalls that from the point of view of the Charter, the reduction of the general grants by government appears to be in conflict with both the stipulation that government

grants should be general rather than ear-marked and that central government should not interfere in a task that has been assigned to the local authorities;

iii. recommends that local authorities are given mainly general grants in order to perform the tasks assigned to them;

**f. legal protection and consultation of local authorities (Articles 10 and 11 of the Charter)**

**the Congress**

i. considers that although the principle of local self-government is given constitutional and legal recognition in Sweden, its constitutional position could be strengthened by obliging Swedish lawmakers to refer to the Charter when drawing up all legislation;

ii. notes that, at present, Swedish lawmakers simply assume that, because the principle of local self-government is mentioned in the constitution and the Local Government Act, then it will be taken into account;

iii. thinks that it will be appropriate that these issues, which are vital for local self-government, are raised and discussed during the work currently undertaken by the commission on the constitution and considers that for the sake of clarity, the commission should be instructed to also put forward proposals aimed at improving local self-government in the Swedish Constitution in accordance with these conclusions;

iv. in this regard, recommends that there should be a system of redress, referred to in the Constitution, to which local authorities could refer breaches of the principle of local government. The European Charter of Local Self-Government could then be the benchmark against which such breaches would be judged. This might mean a Constitutional Court, although it is understood that this option is not widely favoured in Sweden even among the local authorities themselves. Another option would be to strengthen the position of the local authorities vis-à-vis the parliament, which is currently the final court in interpreting the scope of local self-government, particularly with regard to funding. This might mean creating a parliamentary committee on local self-government which could hear both sides of the case – the government and the local authorities.

**II. Regarding regional democracy**

**the Congress**

14. Commends and supports the Swedish authorities for adopting an approach which has allowed for the establishment of the two pilot regions *Västra Götland* and *Skåne* and for extending the trial period although the Swedish Constitution does not recognise any form of subnational government other than municipalities and counties;

15. Stresses that these regions should be considered as true regions with elected regional governments and a wider range of responsibilities than the traditional county councils;

16. Feels that, functionally and politically, the two pilot regions are more akin to what are called regions in other countries and, furthermore, that they have the democratic legitimacy of councils elected through the ballot box;

17. Considers that the experiment with pilot regions has brought about economic growth and provided for a variety of development programmes, from transport to health care, for the benefit of the local population, which would not have occurred if the trial had not taken place;

18. Questions whether an asymmetrical approach might be possible, with some regions adopting the method of

pilot regions and others that of a regional co-operation council;

19. Encourages the Swedish authorities to continue the experiment of regional government by retaining the two pilot regions and by extending the experiment to other parts of Sweden, should other regions wish to adopt it.

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1. Debated and adopted by the Congress on 1 June 2005, 2nd Sitting (see Document CG (12) 7, draft recommendation presented by I. Micallef (Malta, L, EPP/CD) and K. Behr (Germany, R, EPP/CD), rapporteurs).

