

# CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF EUROPE

---

## **Recommendation 114 (2002)<sup>1</sup> on local authorities and public utilities**

The Congress, bearing in mind the proposal of the Chamber of Local Authorities,

1. Having regard to the findings and the Final Declaration of the Conference on Local Authorities and Public Utilities in Europe, held in Innsbruck (Austria) from 10 to 12 October 2001 by the Congress in conjunction with the Committee of the Regions of the European Union and the City of Innsbruck;
2. Considering that the provision of public utilities, particularly energy, transport, water management and waste disposal, is one of the fundamental responsibilities of territorial authorities;
3. Aware that in many cases, the provision of public utilities must be done with regard to and in accordance with the principle of subsidiarity;
4. Believing that public utilities, as a means of serving the public interest, should:
  - a. respond to consumers' needs;
  - b. ensure economic, social and territorial cohesion; and
  - c. protect the environment in keeping with the principles of sustainable development of European regions;
5. Noting that liberalisation and the opening-up of borders in the member states of the European Union have exacerbated the trend away from public ownership to private-sector ownership, a trend fuelled by EU directives relating to markets in electricity and gas;
6. Noting in this respect that the private sector, in providing public utilities, is capable of complying with European Union regulations, can make for a significant reduction in costs and an improvement in quality, fosters innovation and diversification of services, and can be effective and efficient in providing goods and services;
7. Believe, however, that private enterprises as well as public ones should serve the public interest, respect the environment and the principle of equality, protect consumers and ensure that services meet consumers' real needs;
8. Believing, however, that the private sector cannot always ensure balance and social and territorial cohesion in the provision of utilities, is concerned with the utility value rather than the public-interest value, is interested in maximising profits rather than optimising them and is not necessarily subject to democratic control;

9. Noting that, thanks to the liberalisation of markets, municipal public utility enterprises have made efforts to: increase efficiency, reduce costs, promote innovation, improve the quality of services and satisfy consumers;

10. Believing that ownership of infrastructure facilities, in particular water supply and sewerage systems, which have been built up and responsibly managed over many decades by cities, should not be sacrificed in order to maximise profits in the private sector;

11. Noting that in many countries of central and eastern Europe, progress has been made in strengthening the market in electricity, gas, transport, and waste disposal but that, in some of these countries, there are nevertheless major problems as regards the state of the infrastructure (in particular roads, motorways and sewerage systems);

12. Noting that drinking water and electricity supplies in these countries remain uneven, with high costs for consumers, and that in some countries local authority assets have been sold off cheaply to private investors in order to raise instant capital,

13. Believes that with regard to the provision of public goods and services, enterprises using a combination of public and private partners help to ensure consistent and continuous action at local government level, collective control exercised in the public interest, and increased efficiency. Testimony to this can be seen in the success of the mixed-investment companies found in several European countries, which have managed to create synergies between private-sector efficiency and public-sector balance,

14. Draws the attention of Council of Europe member state governments to the need to promote, in conjunction with local authorities:

a. economic cohesion – by encouraging public enterprises in their job-creation role; by encouraging enterprises to seek to optimise profits rather than maximise them; by curbing the practice of selling assets cheaply for the purpose of raising instant capital; by diversifying activities and preventing the formation of national or international monopolies, particularly in the water and energy supply sectors;

b. social cohesion – by safeguarding the public interest by ensuring that every inhabitant has access to public utilities; by allowing the public a say in decisions concerning the construction and operation of public utilities; by introducing special prices for those on low incomes and special services for disabled people;

c. territorial cohesion – by ensuring a balanced territorial distribution of services; by enabling disadvantaged areas, in particular rural and remote areas, to enjoy the same benefits and prices as those enjoyed by urban and more affluent areas;

15. Draws the attention of member state governments to the fact that achieving these cohesion objectives requires that cities and municipalities be able to continue offsetting

losses from structurally deficit activities with earnings from profit-making activities;

16. Requests national governments and European institutions to ensure that legislation on public utilities:

*a.* contains penalties for “dumping”, the sole purpose of which is to eliminate competition;

*b.* prevents the formation of national monopolies or oligopolies in the public utilities sector;

17. Asks the European Parliament and the Council of the European Union to bear in mind that local and regional authorities in many cases still own public utility infrastructure facilities and enterprises which perform important social as well as economic functions and accordingly asks the EU legislature to ensure that these enterprises are allowed to continue providing services without being subject to compulsory tendering;

18. Asks the Commission of the European Union to prepare guidelines in order to clarify the terms of Article 16 of the European Community Treaty on

guaranteeing and ensuring the provision of services of general economic interest and asks that these guidelines reflect the wishes expressed by local and regional authorities.

19. Expresses concern that the General Agreement on Trade in Services (GATS) of the World Trade Organisation (WTO) may constrain the freedom of local authorities to take into account social and environmental considerations in the procurement of public utility infrastructure services and, calls upon the Council of Europe member state governments to consult with national local authority associations about this matter and to ensure that this freedom is protected by negotiating relevant guarantees within WTO agreements.

---

1. Debated and approved by the Chamber of Local Authorities on 5 June 2002 and adopted by the Standing Committee of the Congress on 6 June 2002 (see Doc. CPL (9) 4, draft recommendation presented by Mr A. Schreiber, rapporteur).