

CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF EUROPE

Recommendation 70 (1999)¹ on local law/special status

(Extract from the Official Gazette of the Council of Europe – November 1999)

The Congress,

Taking into account:

1. The need to provide certain territories with special legislation capable of reflecting their history, their geographical position, their culture and their specific concerns;
2. The need to bring public decision-making processes more closely into line with the requirements of certain population groups;
3. The need to take account of the distinctive historical, cultural and linguistic characteristics of certain territories;
4. The population's increasing reliance on public services;
5. The need to adapt these services to the specific characteristics of the population concerned as clearly and simply as possible;
6. The difficulty of applying the rules of ordinary law when attempting to ensure that these particular situations are properly taken into account;

Considering that:

7. Under certain circumstances, special status may provide appropriate protection for regional and minority cultures;
8. This type of status, introduced specifically for a particular part of the territory of a state, can be incorporated into the traditional forms (federal, regional, or unitary) of territorial organisation of states;
9. It is possible to provide for the setting up of territorial authorities that would bring together the members of minority groups within administrative sub-divisions, enabling them to be more effectively protected;
10. The recognition of special status is an appropriate response by states to the existence of specific cultural, historical or geographical situations in part of their territory;
11. The granting of special status is a means of ensuring, on the one hand, that cultural diversity within a state is not considered a threat to the state and, on the other hand, that the state is not perceived as a threat by every minority living on its territory;

¹ Debated and adopted by the Standing Committee of the Congress on 23 November 1999 (see Doc. CG (6) 16, draft recommendation, presented by Mr J. Guinand, rapporteur).

12. The existence of forms of special status reflecting specific requirements in terms of the values involved can be compatible with the rules of ordinary law and lead to greater integration than that produced by uniform or symmetrical unitary systems;

13. Where they exist, these forms of special territorial autonomy remain compatible with the unity of the state and may also help to preserve its territorial integrity;

14. The existence of local law or forms of special status is not at variance with the principle of equality provided it is designed to take due account of a particular situation and differences which need to be respected;

15. The process of European integration has highlighted the need to counterbalance the trend towards legislative standardisation with greater consideration for the particular situations experienced by certain population groups;

16. The existence of different forms of special status in a number of European states has demonstrated that it is possible and feasible to manage the differences within a state through legislation without undermining that state's unity and coherence;

17. Special status or local law, which takes the form of customary rules or oral traditions, often includes aspects of consensus, flexibility and adaptability to local situations which any modernisation of the law should avoid compromising as much as possible;

18. Noting that legislative harmonisation at the broadest level, and in particular at European level, is still desirable, particularly in areas relating to business activity and the movement of persons, and that questions more closely linked to particular contexts (for example educational, cultural and linguistic aspects, the protection of the natural environment or historic heritage, regional planning, social and community activities, and the organisation of local life and democracy) may be subject to legal systems which vary from one place to another, provided they remain consistent with a certain number of general principles;

19. Recalling the following texts adopted by the Congress and other Council of Europe bodies:

- Recommendation 43 (1998) of the CLRAE on territorial autonomy and national minorities;
- the Final Declaration of the Cividale Conference of 26 October 1996 on "Federalism, Regionalism, Local Autonomy and Minorities", which stresses that the territorial autonomy which should be granted to minorities need not take the same form as that granted to local and regional authorities, but may, and indeed must, include more extensive powers, particularly with regard to culture and language, along with the necessary funding;
- Recommendation 1201 (1993) of the Parliamentary Assembly, which proposes that, in regions where they form the majority, persons belonging to a national minority should be entitled to have at their disposal appropriate local or autonomous authorities or a special status corresponding to the specific historical and territorial situation and in compliance with the domestic legislation of the state;

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20. Draws the attention of national governments and other competent authorities to the recent study by the Congress on local law and special status [CG/GT/CIV (5) 3] which:

21. Both describes various means of taking certain distinctive local and regional characteristics more fully into account;

22. And provides a basis for discussion of possible solutions to the growing number of ethnic or cultural conflicts in Europe;

23. Invites the Committee of Ministers of the Council of Europe and the governments of member states to consider the possibility of having greater recourse to the Congress – possibly in co-operation with the European Commission for Democracy through Law (the Venice Commission) – for the drawing up of opinions and proposals on the introduction or preservation of local law or forms of special status, with the aim of seeking solutions to current conflicts in Europe.