

# The Congress of Local and Regional Authorities

## Chamber of Local Authorities



14<sup>th</sup> PLENARY SESSION  
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### Opening of the European Charter of Local Self-Government to the accession of the European Community and of non-member States of the Council of Europe

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Explanatory memorandum  
Institutional Committee

#### Summary:

This Explanatory Memorandum provides background information and further details on the Protocol amending the European Charter of Local Self-Government on the opening of this Charter to the accession of the European Community and of non-member States of the Council of Europe.

R : Chamber of Regions / L : Chamber of Local Authorities  
ILDG : Independent and Liberal Democrat Group of the Congress  
EPP/CD : Group European People's Party – Christian Democrats of the Congress  
SOC : Socialist Group of the Congress  
NR : Member not belonging to a Political Group of the Congress



1. The need to launch a revision of the Charter to enable the European Community and non-member States of the Council of Europe to accede to it was underlined by both the Congress and the Parliamentary Assembly and is consistent with the Committee of Ministers' policy of openness towards the European Community and non-European States and the Council of Europe's recent practice in convention-related matters.
2. It was in 2005 that, in its Resolution 195 (2005), the Congress instructed its Institutional Committee and the Group of Independent Experts on the Charter to consider the possibility of "opening the Charter to States that are located in the immediate vicinity of Council of Europe member States but are not Council of Europe members themselves and have democratically formed local authorities".
3. In the same document the Congress also stated "the question of ratification of the Charter by the European Union, by virtue of the latter's legal personality under Article I-7 of the Treaty establishing a Constitution for Europe, merits attention".
4. In its Recommendation 1770 (2006) on the promotion of local self-government along Council of Europe borders the Parliamentary Assembly of the Council of Europe recommended, inter alia, that the Committee of Ministers provide for the Charter to be opened for signature by non-member States.
5. Further to the above-mentioned Resolution 195 (2005), with a view to carrying out the work necessary to amend the Charter and make possible the accession of the European Community and of non-member States, the Institutional Committee asked the Group of Independent Experts to prepare proposals to that end and appointed me as rapporteur.
6. During its meeting in St Gallen on 12 October 2005 the Group of Independent Experts decided to set up a Restricted Group on the Protocols, comprising six of its member experts, which was entrusted with the task of drawing up proposals for amending the Charter.
7. It should be noted that this group was also asked to "continue examining the different means of transposing the clarification and/or development of notions linked to the Charter, described in the report "20th Anniversary of the European Charter", into legal reality".
8. The Restricted Group held five meetings between 9 December 2005 and 12 February 2007. The Legal Advice Department of the Council of Europe gave two opinions on two preparatory versions of the draft Protocol and draft explanatory report, dated 31 January 2006 for the first opinion and 11 January 2007 for the second. I participated in the meeting held in Paris on 12 February 2007 to finalise the texts relating to the draft amending Protocol, which are fully in accordance with the opinions issued by the Legal Advice Department. On the same date the Restricted Group finalised adopted the preliminary draft amending Protocol and the explanatory report thereto and transmitted them to the Group of Independent Experts for consideration with a view to their adoption.
9. The Group of Independent Experts on the Charter considered and adopted the preliminary draft amending Protocol and draft explanatory report at its meeting in Strasbourg on 2 March 2007. It then transmitted these documents to the Institutional Committee for consideration with a view to their approval.
10. The Institutional Committee considered and approved the preliminary draft Recommendation with the draft amending Protocol and the draft explanatory report thereto in the appendix at its meeting in Strasbourg on 12 April 2007.
11. The draft amending Protocol and draft explanatory report are set out in the appendix to Recommendation ...