

# The Congress of Local and Regional Authorities



## Chamber of Regions

**14<sup>th</sup> PLENARY SESSION**  
**CPR(14)6REP**  
15 May 2007

### Proposal for a European Charter of Regional Democracy

Jean-Claude Van Cauwenberge, Belgium, (R, SOC)

Explanatory Memorandum  
Institutional Committee

#### Summary:

The report presents the results of the work of the Congress's Reflection Group on Regionalisation in Europe. It is accompanied by a more detailed expert report on "The current state of regionalisation and the prospects of development of regional self-government in the member states of the Council of Europe", a draft resolution and a proposal of a draft European Charter of Regional Democracy prepared by the same group.

The report presents the political considerations that had led the Congress to start a relaunch of the debate on a European legal instrument for regionalisation. It draws in particular on recent regional developments in Europe and underlines the added value of greater regionalisation. It outlines the reservations of some member states that had caused the failure of the draft European Charter on Regional Self-Government proposed by the Congress in 1997 and describes the adapted, innovative approach necessary for a new legal instrument on regional democracy, such as the inclusion of the principle of loyalty and respect of territorial integrity of the state, the principles of good governance, participation of citizens and the reaffirmation of respect for local self-government. The appended draft Charter is a first proposal meant as a basis for discussion and joint reflection of all players concerned.

It is intended to submit a more elaborate draft with a Recommendation to the Committee of Ministers to the Congress Plenary Session in 2008. In the mean time, further consultations could take place, in particular with representatives of the CDLR, Parliamentary Assembly, Committee of the Regions, and intergovernmental organisations of regions such as AER, CEMR, CPMR, RegLeg and others.

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



## **Introduction**

1. In 1997, the Congress adopted a "draft European Charter of Regional Self-Government". This did not receive support from a large enough majority of member states at the Ministerial Conferences in Helsinki in 2002 and Budapest in 2005.

2. The Congress has nevertheless decided to start a new debate on the prospects for regionalisation in Europe, and remains convinced of the need to provide member states with a legal instrument on regional democracy which complements the European Charter of Local Self-Government.

3. The Congress is indeed convinced that, in application of the principle of subsidiarity, it is important to develop a regional tier in European countries between the local level (towns and municipalities) and the central authorities, in order to improve the governance of European states and to enable European citizens to be closer to decision-taking centres.

4. The work done since 2005 within the Congress itself and the CDLR (Steering Committee on Local and Regional Democracy) has focused on two questions:

- What new, innovative and important developments have occurred in member states at regional level?

- How can new life be breathed into the debate on the codification of regional democracy on the basis of recent developments?

5. At the Plenary Session of the Congress in 2006, I presented an information report on "Prospects for Regionalisation in Europe" [CPR (13) 4]. A more substantial report on "The current state of regionalisation and the prospects of development of regional self-government in the member states of the Council of Europe", written by Mr Semmelroggen, expert, is appended to this explanatory memorandum. For its part, the CDLR has prepared a draft report on "Developments in regional self-government across member states", which is to be presented to the Ministerial Conference in Valencia in October 2007.

6. The Congress has decided to hold a debate in the Chamber of Regions at its 14th Plenary Session (26 May - 1 June 2007), during which the present report is to be discussed. A draft resolution will be put to the vote in the Chamber, instructing the Congress delegation to put to the Ministerial Conference in Valencia the components of a new draft European Charter of Regional Democracy.

7. This explanatory memorandum presents the results of the recent work of the Congress' Reflection Group on this subject. The Group deserves thanks for the quality of its work.

### **I. Developments on the regional front in Europe**

8. A study of developments in terms of regional democracy in certain member states since the year 2000 reveals the following facts: in almost all Council of Europe member states, far-reaching reforms have affected regional authorities, are under way or are in preparation for the years ahead. These reforms concern federal states, states with a high level of devolution and strong regional self-government, states which have devolved central powers and states which are in the process of regionalising their central government.

9. These regionalisation processes, described in detail in the appendix to this report, tend to be successful, although the effects of reform are seldom evaluated systematically. There have been some failures, however, or unfortunate effects. It is important to point out in this respect that a plan to set up elected regional assemblies in England was rejected in a referendum in autumn 2004. In Italy, a reform plan involving a redistribution of powers between central government and the regions was also rejected in a referendum of June 2006. Fresh proposals have nevertheless been announced by the new Italian government with a view to giving the regions their own powers in the fiscal sphere (fiscal federalism).

10. Generally speaking, member states regard their internal territorial organisation, and therefore decisions on the advisability of sharing power between several tiers of government, as matters within their own national remit. Some developments can nevertheless be observed, especially in European Union law, affecting the scope and substance of regional development in the countries of Europe. The pressure brought to bear by the European Union, particularly on its new members, through its regional

policy and structural funds (or other financial instruments with a regional slant) has had appreciable effects on regional structures.

11. Legal protection for regional authorities at European level is fairly limited. While some provisions do exist on regional self-government, member states tend to have little inclination to accept international rules or recommendations in this field.

12. The conclusions below may be drawn from the work in progress at the Council of Europe:

a) Change is under way at regional level in Europe: virtually all member states have reformed, are reforming or plan to reform their regional tier.

b) Just like the national tier, the regional tier is very much subject to economic, social and structural pressure and change:

- effects of globalisation;
- effects of European integration.

c) The regional tier seems to be the ideal level to carry out many particularly important public tasks:

- proximity of the regional tier to the civil and private sectors;
- appropriate scale for planning, co-ordination and supervisory functions in particular;
- level of government capable of guaranteeing the consistency of political activity.

d) Current reforms or plans particularly cover the following:

- division of territory;
- distribution of powers;
- financial appropriations to regions (according to the powers transferred);
- co-operation between regions;
- regional representation at national and European/international levels.

e) The current reforms reflect changes at national level: they are co-ordinated in terms of neither substance nor time, nor are they co-ordinated at European level. The fundamental trend towards increased regional democratic governance is ever more widespread.

13. A significant development of co-operation between regions and across borders is also observed, thanks to the legal instruments of the Council of Europe and European Union, as well as financial incentives offered by Community policies in this sphere. Such co-operation is already highly developed in western Europe, but has also expanded to the greater part of central and eastern Europe. It undeniably offers the regions of different states, and with different levels of self-government, an opportunity to gauge the disparities with their partner regions in terms of powers and financial autonomy, disparities which act as so many checks on their co-operation, which can relate only to the powers common to the two or more regions concerned. A need for harmonisation of regional reforms in the various countries of Europe automatically arises.

14. Nor can it any longer be denied that the successive enlargements of the European Union, first from 15 to 25, and then to 27 member states, have encouraged regions to play an increasingly active role, particularly in the new member states, where the centralising traditions of Communist regimes stood in the way of regional devolution, and where the regional tier often represented the level at which the state kept the local tier under control.

## **II. The added value of greater regionalisation**

15. Among the features of greater regionalisation are:

- regions are playing an increasingly active role in the building of Europe;
- regionalism is the only way of putting into practice the principles of subsidiarity and proximity;
- contemporary democracy requires the democratic force and the governance at a level close to the citizen provided by an intermediate tier between central and local government;

- increasing amounts of co-operation between regions and across borders (cf the new instruments under discussion at the Council of Europe and in the European Union) demonstrate regional vitality;
- regions provide a counterweight to globalisation and an antidote to separatism;
- regionalism is not a Trojan horse to destabilise states, but a factor in strengthening their institutional structure, and especially their democratic legitimacy;
- regionalisation enables both centrifugal processes and the splitting of territories into many small entities to be avoided;
- when minorities can benefit from regional structures and find their place within them, conflicts may be avoided.

16. The following comments may also be made:

- the idea of "shared sovereignty" must be promoted;
- it is one of regions' duties to preserve national unity, territorial integrity and the coherence of internal policies;
- the six Helsinki models are no longer capable of taking regional dynamics into account.

### **III. The key elements of the draft Charter produced by the Congress in 1997 (Recommendation 34 of 5 June 1997)**

17. For its work on regional self-government, the Congress took as its starting point an existing Council of Europe legal instrument, the European Charter of Local Self-Government, of 1985, and more particularly the definition of local self-government given by that Charter (in Article 3).

18. This work was based on the following considerations:

a) The Congress was in favour of legal consistency with the European Charter of Local Self-Government. The guarantee of regional self-government at European level could not be less than that for which provision was made in relation to local authorities.

b) The Congress was committed to regional self-government which respected member states' national unity, territorial integrity and regional diversity.

c) The Congress called for basic standards to be adopted which, at the very least, covered the guarantee of self-government, powers, organisation, finance, regions' participation in national and European affairs and interregional co-operation.

d) The Congress wished to strengthen the legal status of regions in a way that complemented the path followed by the European Union. The EU wished to strengthen regions' rights through a new protocol on subsidiarity. The Congress could support this approach through a regional Charter, something not possible in the European Union.

e) The Congress obtained unanimous support from the Parliamentary Assembly (Recommendation 1349 (1997)) and from the Committee of the Regions (13 December 2000) for its draft Charter, support that was recently reiterated.

19. In order to understand the new move by the Congress, it is important to remember certain characteristics of the Congress' draft (of 1997):

- a) a very large measure of consistency with the European Charter of Local Self-Government, of 1985;
- b) the draft was valid for virtually all member states, with a fairly small degree of differentiation;
- c) the draft did not make a strong distinction between advanced regionalisation (regions holding legislative powers) and other forms of regionalisation;
- d) the draft placed more emphasis on regional units' rights, but less on their duties and responsibilities (in the national and European context);
- e) although it contained a clause allowing for further change, encouraging regional development, the draft did not include a sophisticated programme for countries in the process of regionalisation.

#### **IV. The work of the Ministerial Conferences in Helsinki (2002) and Budapest (2005)**

20. As we know, the Congress' draft European Charter of Regional Self-Government was not agreed by the specialised Ministers, so not by the Committee of Ministers either. At the 2002 Helsinki Conference of European Ministers responsible for Local and Regional Government, the Ministers agreed on the feasibility of a legal instrument on the basic components of regional self-government. But member states did not agree on whether this instrument should take the form of a convention (binding) or a recommendation (non-binding). In spite of these differences of opinion, the Conference did, on the basis of the work of the CDLR, adopt some core concepts of regional self-government and overviews of six models which encapsulated Europe's regional diversity (the six Helsinki models).

21. Another approach with a view to the adoption of a legal instrument failed at the Budapest Ministerial Conference in 2005. The CDLR had nevertheless drawn up a draft recommendation and a draft convention on regional self-government, largely based on the Helsinki principles, but in greater detail. It had not been possible, however, for the CDLR to find a compromise acceptable to all the countries in respect of the issue of regional tax-raising power. Thus the Budapest Conference was unable to approve continuation of the draft convention or recommendation, the Ministers also being divided on these two kinds of legal instrument. The Ministers therefore instructed the CDLR to "produce a substantial report on [...] developments, innovations and issues" relating to regional self-government in Europe. The Budapest Conference in fact marked a halt in the CDLR's preparatory work on a legal instrument proper.

22. The Committee of Ministers of the Council of Europe then instructed the CDLR to draw up a substantive report on the new facts observed in member states in relation to regional self-government, identifying in particular the innovations and any issues common to a number of states, in order to communicate this document to the 15th session of the Conference, to be held in Valencia in October 2007.

#### **V. Member states' reservations**

23. To the extent that it has not to date been possible to adopt within the Council of Europe an instrument which guarantees regional self-government, the prospects of success for a new political initiative very much depend on good knowledge of member states' reservations and misgivings.

24. Some member states having an at best doubtful, or even hostile, attitude to the adoption of such an instrument, it will be useful for the Congress to identify the reservations expressed so as better to direct its future activity.

25. Member states' positions may be categorised as follows:

- some are in favour of the adoption of a European legal instrument, preferably in the form of a European convention;
- others are in favour of the adoption of a European legal instrument in the form of a recommendation;
- others are in favour of national legal protection for regional self-government;
- there are countries which would consider a solemn declaration to be enough;
- others take a more "neutral" line or are undecided.

26. The main doubts at first sight seem to fall into the following categories:

a) General opposition to the legal pressure brought to bear at European level with a view to defining the substance and scope of regional self-government; a legal instrument concerning regional self-government would introduce Council of Europe supervision of its member states;

b) Reservations vis-à-vis the codification of regional self-government, as a result of dissatisfaction with regionalisation experiments or the inability of regional authorities to exercise their powers effectively and, in economic terms, efficiently;

c) The risks that too radical a development of regional self-government would entail for national and territorial integrity, and even the dangers deriving from separatist tendencies. The maintenance of national unity and equality is thus a prime concern. National constitutional constraints limiting the scope of the concept of regional self-government are regarded as desirable. In this respect, several examples may be said to demonstrate that well-designed regionalisation is in practice more of a bulwark against separatism.

d) A wish among central authorities to maintain the major lines of economic and political development in the national interest, especially in countries which are in transition. With this in mind, regionalisation is "put off until later", being regarded as a "luxury" which requires a mature and advanced economic and political situation and civil society.

e) A fear in central government of losing financial resources or sharing them with regional bodies and, where European funds are concerned, of no longer having power to influence the content of programmes.

f) A feeling that a binding legal instrument might set reference targets that exceed national ambitions: some countries fear that such an instrument would open the way for a regional development process beyond their control, to which they are not, for the time being, willing to commit themselves, or at least not so rapidly.

g) A fear among national elites and the staff of decentralised national bodies of a loss of influence if the structures of regional self-government are strengthened. There is a fear that wages may fall, because pay is lower at regional level. Another fear is that regional disparities may be aggravated.

h) Uncertainty about, in particular, the financial and administrative consequences of regional reform, bearing in mind the need for a complete reorganisation of relations between central government, regions and local authorities. Such a process is a costly and time-consuming one, draining much of the energy of the political class.

27. The doubts about a draft Charter of regional self-government expressed by governments are sometimes reflected in large segments of the public and in the media. Be that as it may be, several of these reservations lack any real foundation, and an equally large proportion of the public and the political parties are in favour of regionalisation.

## **VI. A new approach by the Congress with a view to a Charter of regional democracy**

28. Following the 1997 failure and an analysis of several member states' reservations and certain recent developments, the Congress sought other appropriate legal and political approaches to achieving an acceptable outcome.

29. In view of the variety of reservations mentioned above, it is important to remember that the Helsinki Declaration on Regional Self-Government (28 June 2002) recognised the need for a legal instrument, stating in paragraph 11 that:

"the Council of Europe should recognise and promote common principles on regional self-government in a European legal instrument which takes into account member states' experience".

30. It is also appropriate to point to certain European Union texts (considered in detail in the appendix). The draft Treaty establishing a Constitution for Europe, in particular, provides in Article I-5 that the EU shall respect the fundamental structures of member states "inclusive of regional and local self-government", necessarily implying the acceptance in European law of the principle of regional self-government. And the third paragraph of the Preamble to Part II, i.e. the "Charter of Fundamental Rights of the Union", provides that "The Union contributes to the preservation and to the development of these common values while respecting the diversity of the cultures and traditions of the peoples of Europe as well as the national identities of the Member States and the organisation of their public authorities at national, regional and local levels".

## **VII. Alternative instruments considered by the experts**

31. Before deciding on its new course of action, the Congress gave thought to several possibilities, which it ultimately rejected.

- *New recommendation/resolution*

32. This proposal involved the presentation to the Valencia Conference of a brief statement containing all the proposals relating to the development of regional self-government and setting out practical criteria.

It was also proposed to draw up a "European code of subsidiarity and local and regional self-government".

- *Reworking of the European Charter of Local Self-Government (proposed in June 2005 by Mrs Halvarsson)*

33. The aim of this proposal was, in the context of a reworking of the European Charter of Local Self-Government, to add a second part devoted to regional self-government, and thus including both components of sub-national self-government in a single instrument. It became apparent that combining the Charter with a text on regional self-government would give rise to considerable political and legal complexity. This solution might well have led to total failure of the project, with possible repercussions for the part on local democracy. Such a path would be unacceptable to countries with federal or quasi-federal structures, for which the regional tier could not be dependent on the local tier, the hierarchy of powers being exactly the opposite in this kind of state. Consequently, the very form of the legal instrument must take account of this great diversity.

- *Additional Protocol to the European Charter of Local Self-Government*

34. This proposal involved the addition to the European Charter of Local Self-Government of an Additional Protocol on regional democracy. It became apparent that, even with two legally distinct instruments, the same uncertainties remained: any disagreement about the regional legal instrument might be transferred to the European Charter of Local Self-Government and jeopardise the very existence of this instrument. Furthermore, it would not be politically acceptable to propose an Additional Protocol, especially for regions which have powers relating to local affairs and do not want their interests to be subject to an Additional Protocol to the European Charter of Local Self-Government.

- *Conclusion of a convention on the basis of international law extending beyond the Council of Europe (following the example of the Alpine Convention of 7 November 1991, involving eight countries and the European Community)*

35. Had this option been chosen, a Convention on Regional Self-Government would have brought together only a handful of states parties, so its scope would have been limited. Furthermore, a legal instrument on regional self-government would have to deal with all the aspects which guarantee vigorous regional self-government. Were we to settle for limited framework regulation, the substance of regional self-government would be unclear.

36. Although some of these projects were of interest, we opted for a new Charter of Regional Democracy.

## **VIII. Proposed European Charter of Regional Democracy (cf Appendix to the draft Resolution)**

### **VIII.1 Philosophy of the new Charter**

37. The reworking of the 1997 Charter is a necessity dictated by rapid changes in not only our societies, but also their political structures and methods of governance, and the demands made by citizens.

38. The new draft must reaffirm respect for local self-government, while ensuring the consistency and regional cohesion of local policies.

39. The new instrument must prohibit regional centralism. Local self-government must be protected.

40. The future convention must be flexible enough to cater for the fact that the regional tier tends to experience more changes in terms of dynamics, powers and responsibilities than the local tier, which is structurally more homogeneous, in spite of its diversity.

41. The new instrument must emphasise regions' responsibilities and duties as much as their rights.

### **VIII.2 Innovative aspects of the new draft Charter**

42. Bearing in mind the obstacles encountered and reservations expressed as the Congress worked towards a convention on regional self-government, it seems sensible for the Congress to adopt a new

philosophy, which now underlies the new draft that it intends to develop as a basis for discussion following the Valencia Ministerial Conference. The new draft European Charter of Regional Democracy thus contains numerous innovative elements likely to give the Ministers reason to reverse their Budapest decision and to take into consideration the Congress' new draft as a basis for discussion and dialogue with the Congress and with the Parliamentary Assembly.

43. The main innovative elements of the draft now put forward by the Congress with a view to the Valencia Conference are:

a) A new title emphasising "regional democracy", rather than using the term "self-government", also matches the new content of the Charter.

b) A new structure, divided into three parts:

- a common core containing the fundamental principles of regionalisation;
- a kind of common basis for all the states that accede;
- Part II offering three alternative options for each subject dealt with, according to each country's own level of self-government, making accession possible as appropriate to different types of regionalisation;
- and Part III specifying the arrangements for implementing regionalisation on the basis of a more flexible method of accession allowing a large number of reservations.

c) The innovative principles included in Part I likely to be of interest to governments and local authorities are:

- the principle of good governance,
- participation by citizens,
- the principle of good administration,
- reaffirmation of respect for local self-government, as defined in the European Charter of Local Self-Government,
- the principle of co-operation between regional and local authorities, as well as between regional authorities themselves,
- the principle of loyalty and respect for the territorial integrity of the state,
- the principle of cohesion and solidarity,
- the inclusion in Parts II and III only of regional tax-raising powers (own resources such as regional taxes, the rates of which may be decided by the regions), leaving countries free to sign up to such a commitment or not.

d) Finally, the inclusion in Part III of the right of the higher state authorities to act in lieu of regional authorities in specific cases in which these fail to carry out their statutory duties.

44. With a view to achieving a relaunch of a Europe-wide debate on a legal instrument on Regional Democracy at the Conference of European Ministers responsible for local and regional government on 15-16 October 2007 in Valencia (Spain), the presentation of the draft Charter must also take into consideration the sensitive nature of this draft for some countries.

Given the continuing concerns of some governments to the proposal of creating a new draft legal instrument on regionalisation, the Bureau of the Congress suggested to the rapporteur to change certain aspects of the presentation of the preliminary draft Charter, although without modifying its content. In order to avoid provoking confrontation with certain governments who are not convinced of the necessity of such an instrument, further emphasis should be put on the fact that this proposal is not a final document as the rejected draft European Charter of Regional Self-Government of 1997. At this stage, it should be considered as a very first proposal which could serve as basis for discussion with regions, regional associations, the Committee of the Regions of the European Union, the competent Committee of the Council of Europe's Parliamentary Assembly and the CDLR. A joint reflection between all these players should take place during the next year until the Congress Plenary Session 2008, where a final and consensual draft Charter could be adopted and then submitted to the Council of Europe Committee of Ministers.

The draft Charter appears as an appendix to this explanatory memorandum.



## **APPENDIX**

### **Draft European Charter of Regional Democracy**

## **Preamble**

The member states of the Council of Europe [and other states], signatory hereto,

### **Democratic developments in Europe**

1. Believing that the strengthening of local and regional democracy is one of the Council of Europe's major concerns and that all the member states are under constant pressure to adapt their territorial structures of government;
2. Noting that the right of citizens to participate in the conduct of public affairs at all levels of government is one of the democratic principles that are shared by all the member states and that the exercise of that right at regional level contributes to the entrenchment of democratic values and the rule of law;
3. Recalling the results of the Conferences of European Ministers responsible for Local and Regional Government held in Helsinki in June 2002 and in Budapest in February 2005;

### **Identity and regional culture**

4. Believing that regional democracy helps to balance the effects of globalisation in the member states, particularly through regional policies of economic stimulation, social solidarity, cultural development and safeguarding of regional identities;
5. Taking into account the benefits of regional action in the fields of integration of minorities as well as in transfrontier and interregional co-operation;
6. Considering that regional entities bear witness, through their identities, to Europe's diversity and contribute to the enrichment of European cultures with due regard to national and regional traditions;
7. Bearing in mind the objectives of the European Charter for Regional or Minority Languages regarding promotion of the regional linguistic heritage;
8. Affirming that regional democracy presupposes the existence of a level of regional authority endowed with democratically constituted and freely organised decision-making bodies possessing a wide degree of autonomy and sufficient resources with regard to their responsibilities and the ways and means by which those responsibilities are exercised;

### **Regional democracy and central government**

9. Respecting the diverse ways in which Europe's regions are organised and each state's competence for determining the scope of regional democracy and the conditions governing its exercise;
10. Recognising the interest of states which are at the start of a regionalisation process in gradually developing regional democracy;
11. Aware of the obligation of regional entities to respect in all their actions the principles of sovereignty, national integrity and the safeguarding of key national interests in the European integration process;
12. Considering that regional entities must contribute by their actions to stability and peace between European nations and peoples;

### **Regional democracy and local authorities**

13. Bearing in mind the European Charter of Local Self-Government of 15 October 1985, which is complementary to the present Charter;
14. Asserting that regional democracy must not be achieved at the expense of the autonomy of local authorities;

### **Regional democracy and European integration**

15. Aware of the importance of upholding the fundamental rights embodied in the Convention for the Protection of Human Rights and Fundamental Freedoms;  
Have agreed as follows:

#### **Article 1:**

Each Party undertakes:

- to apply without reservations the principles and rules set out in Part I of the Charter;
- to consider itself bound by one of the paragraphs a), b) or c) under each of the six sections in Part II;
- to consider itself bound by at least 27 of the 41 paragraphs in Part III.

#### **Article 2:**

Each Party shall, in its instrument of ratification, acceptance or approval, specify the communities or authorities within its borders which qualify as regional authorities within the meaning of this Charter.

### **Part I: Key elements of Regional Democracy**

#### **Article 3: Principle of democratic governance**

The recognition and exercise of regional self-government is one of the elements of democratic governance, which means that regional authorities must be founded on democratic principles, on respect for human rights and on the pursuit of objectives of peace, stability, prosperity and solidarity-based durable development.

#### **Article 4: Citizen participation**

Regional authorities shall encourage the exercise of citizens' right to participate in the management of public affairs and shall aim to bring the administration closer to the public.

#### **Article 5: Principle of subsidiarity**

The allocation of public responsibilities to regional authorities shall be governed by the principle of subsidiarity, as applicable to the relations of competence among all tiers of government, which means that regional authorities shall assume those responsibilities which are best exercised at regional level on account of their scale, their nature and the requirements of efficiency and economy.

#### **Article 6: Principle of good governance**

6.1 The exercise of regional self-government shall comply with the principles of informed decision-making and evaluation of decisions made, as well as pursue aims of flexibility, openness, transparency, participation and public accountability.

6.2 The performance of public tasks at regional level shall comply with the principles of good administration and quality of public services.

#### **Article 7: Concept and definition of a regional authority**

7.1 For the purposes of this convention, regional authorities are entities between central government and local authorities.

7.2 The present Charter does not preclude regional authorities from being considered a type of local authority within the domestic legal order, or a single authority from exercising the combined competences of both a local authority and a regional authority.

#### **Article 8: Relations with local authorities**

8.1 The relationship between regional authorities and local authorities shall be regulated according to the principles of local self-government as set out in the European Charter of Local Self-Government.

8.2 There is not necessarily a hierarchical relationship between regional authorities and local authorities, unless the country's constitutional or legal order so provides.

8.3 Regional authorities shall co-operate with local authorities in the pursuit of objectives of general interest and to meet citizens' needs.

#### **Article 9: Principle of loyalty and respect for territorial integrity**

9.1 The relationship between regional authorities and central government shall be based on the principle of mutual loyalty and equal dignity and shall entail respect for the unity, sovereignty and territorial integrity of the state.

9.2 Regional self-government necessarily entails compliance with the rule of law and the respect of the territorial organisation of every state whether in relations between central government and regional authorities, relations between regional authorities and other territorial authorities or relations between regional authorities and citizens.

9.3 Regional authorities shall take all appropriate measures to ensure fulfilment of the obligations arising from the Constitution or the law.

#### **Article 10: Principle of cohesion**

The exercise of regional self-government shall contribute to the central government's economic and social cohesion objectives and to central government activities aimed at achieving comparable living conditions and balanced development throughout national territory, in a spirit of solidarity between regional authorities.

#### **Article 11: Constitutional or legal basis of regional self-government**

11.1 The principles of regional self-government and the existence of regional authorities shall be established by the Constitution, by law or by international treaty.

11.2 The conditions governing the creation, modification or abolition of regional authorities shall be determined by the Constitution or by law. Regional authorities shall be consulted before any measures are taken concerning their existence or changes to their territorial boundaries.

11.3 Regional competences shall be defined by the Constitution, by law and by the regional authorities' statutes.

#### **Article 12: Scope of regional self-government**

12.1 Regional authorities shall have the legal competence and the effective ability, within the limits of the Constitution and the law, to regulate and manage all matters of regional interest which are not excluded from their competences or attributed to another authority by the Constitution or by statute, under their own responsibility and in the interests of the population.

12.2 Regional authorities' own competences shall be full and exclusive. Within the limits of these competences, regional authorities shall have decision-making and administrative competences.

12.3 Within the statutory limits, competences may be delegated to regional authorities by central government, local authorities or other public authorities.

#### **Article 13: Right of initiative**

Regional authorities shall have full discretion to exercise their initiative in an area of responsibility which is not assigned to any other authority by the constitution or by law.

#### **Article 14: Regional elected bodies**

The right of regional self-government shall be exercised by assemblies elected through free and secret suffrage. This provision shall in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation, where it is permitted by law.

#### **Article 15: Conditions of office of elected representatives composing regional bodies**

15.1 The conditions of office of regional elected representatives shall provide for the free exercise of their functions, without prejudice to any mandates assigned to them by the authorities they represent. Members of the council or assembly shall have the right to express themselves freely.

15.2 Any functions and activities which are deemed incompatible with the holding of regional elected office shall be determined by law.

15.3 Only sanctions provided for by law may be taken against the elected members of regional bodies. They shall be proportionate to the importance of the interests they are intended to protect and shall be subject to judicial review. Suspension and dismissal shall be provided for solely in cases where the body concerned is unable to function or where serious breaches of the Constitution or the law have been found by a judicial or administrative authority independent of the body of which the elected representative is a member.

#### **Article 16: Resources of regional authorities**

16.1 Regional authorities shall have the right to own property.

16.2 Regional authorities shall be entitled to financial resources that are provided for by law, foreseeable and sufficient for the effective exercise of their competences and responsibilities.

16.3 Regional authorities' resources shall be sufficiently diversified and, on the one hand, provide them with reasonable stability and, on the other, enable them to keep pace with the real evolution of the cost of carrying out their tasks.

16.4 Financial transfers to regional authorities shall be governed by rules established by law and based on objective criteria relating to regional competences.

16.5 Any transfer of competence to regional authorities shall be accompanied by a transfer of corresponding financial resources.

16.6 State transfers to regional authorities should in principle not be earmarked.

#### **Article 17: Self-organisation of regional authorities**

Regional authorities shall freely determine their internal structures, their administrative system and their organisation, within the general framework defined by the Constitution, by law or by regional statutes.

#### **Article 18: Right of association, interregional co-operation and external relations**

18.1 Regional authorities and other territorial authorities may, within the limits of the law and in matters within their competence, define their mutual relationships and co-operate with each other. They shall be entitled to form associations, including with other territorial authorities.

18.2 Regional authorities shall also have the right to be members of international organisations of regional and/or local authorities. Regional authorities may engage in interregional and transfrontier co-operation with territorial authorities of other countries, within the limits of their competence and in compliance with the law and the international commitments and foreign policy of the state.

18.3 Where the need arises regional authorities shall be involved in the activities of European and international institutions or be represented therein through bodies established for this purpose.

#### **Article 19: Right to be consulted**

Regional authorities shall be involved in all decision-making that affects their competences and essential interests in particular by participating in spatial planning processes concerning them.

**Article 20: Supervision of regional authority acts**

20.1 Any supervision of acts relating to regional authorities' own competences may be exercised only according to the procedures and in the cases provided for in the Constitution, by law or by statute. Such supervision shall be exercised in such a way as to ensure that the intervention of the supervisory authority is kept proportionate to the importance of the interests which it is intended to protect. Such supervision shall be exercised only ex post facto.

20.2 Any supervision of regional authorities concerning the exercise of their own competences shall be aimed solely at ensuring their activities' compliance with the law and with constitutional principles. However, the supervision of the implementation of delegated powers or tasks of execution entrusted to them may include an appraisal of expediency and efficiency.

**Article 21: Protection of regional self-government**

Regional authorities shall be entitled to apply to a judicial authority to ensure respect for the free exercise of their powers and the principles of regional self-government enshrined in the Constitution or in law.

## **Part II**

### **Article 22: Different forms of organisation of regional authorities**

The regional democracy promoted by this Charter may find expression in different organisational forms: a federal system, a system of decentralised regional authorities or a local authority co-operation structure. In order to comply with the principles set out in Part I, the Contracting Parties agree to be bound by one of the paragraphs, a), b) or c), of each of the six sections below.

### **Article 23: Guarantee of existence**

a) The existence of regional authorities is guaranteed by the Constitution.  
The existence or territorial boundaries of a regional authority may be interfered with only under the rules and procedures provided for by the Constitution.

b) The existence of regional authorities is provided for by the Constitution or by law.  
The existence or territorial boundaries of a regional authority may be interfered with only under the rules and procedures provided for by the Constitution or by law.

c) Regional authorities can be set up in the form of groupings of local authorities according to conditions defined by law.

### **Article 24: Functions**

a) The functions of regional authorities are determined by the Constitution.  
In the areas relating to their own functions regional authorities are fully empowered to exercise standard-setting (legislative or regulatory), decision-making and administrative powers.  
Where functions are delegated to regional authorities by other public authorities, regional authorities must be able to adapt their exercise to the conditions specific to the region.

b) The competences of regional authorities are determined by the Constitution or by law.  
Regional authorities have decision-making and administrative competences of their own. These powers must enable them to adopt and implement policies specific to them.

c) The competences of regional authorities are determined by law or by their statutes.  
States and other public authorities may delegate competences to them or assign implementing tasks to them.

### **Article 25: Resources**

a) Regional authorities' resources and the conditions of their use are determined by the Constitution.

b) Regional authorities must have resources of which they can dispose freely.  
A significant proportion of those resources must derive from taxes and charges whose rates they are empowered to determine within the limits provided for by law.

c) Regional authorities' resources and their conditions of use are determined by law or by their statutes.  
These resources can consist of contributions from member authorities.

### **Article 26: Principal bodies**

a) Regional authorities have an assembly elected by direct universal suffrage in a free and secret ballot.  
The bodies responsible for exercising executive functions are accountable to this assembly.

b) Regional authorities have an assembly elected by direct universal suffrage.  
Executive bodies are appointed or elected by the assembly or elected by the population. They report on their activities to the assembly.

c) The regional assembly is traditionally made up of elected representatives of the local authorities composing the region. Regional authority bodies must report on their management according to the law and their statutes.

**Article 27: Supervision**

a) Central government supervision of regional authorities must be provided for by the Constitution and must aim only to ensure that their action complies with the rules governing them. It must be possible to refer any dispute between central government and a regional authority to a constitutional judicial authority.

b) Supervision of regional authorities must be provided for by the Constitution or by law.

c) Supervision of regional authorities is determined by law or their statutes.

**Article 28: Co-operation with other levels of public authorities**

a) Regional authorities may be vested with competences to organise, assign functions to and supervise local authorities, while complying with the principles of the European Charter of Local Self-Government.

b) Regional authorities exercise no supervision over local authorities.

c) The relations between regional authorities and other public authorities are determined by law or by their statutes.



### **Part III – Forms of regional organisation**

#### **Article 29: Areas of responsibility of regional authorities**

29.1 Regional authorities shall normally be responsible for promoting regional culture and defending and enhancing the region's cultural heritage, including regional languages.

29.2 Regional economic development shall constitute an important aspect of regional responsibilities, to be carried out in partnership with economic operators in the region.

29.3 Regional authorities shall help to adapt education and training facilities to employment development requirements in the region.

29.4 Social welfare and public health shall, as a rule, be among the areas of activity of regional authorities, which shall also be responsible for promoting social cohesion in the region.

29.5 Balanced development of the territory shall constitute a major objective of any action by regional authorities affecting the territorial organisation of the region.

29.6 Regional authorities shall normally be responsible for protecting and enhancing natural resources and biodiversity and shall contribute to the sustainable development of the region, with due regard for national, European and international policies in this respect.

#### **Article 30: Shared responsibilities**

In areas where responsibility is shared, dialogue, arbitration and co-operation mechanisms are set up to ensure the coherence of public policy and respect for regional competences.

#### **Article 31: Delegated responsibilities**

31.1 The instrument delegating responsibilities shall, in so far as is reasonable, include a definition of resources, in particular material and financial resources, for the effective discharge of the responsibilities delegated to regional authorities.

31.2 Regional authorities shall, as far as possible and within the limits of the law, be allowed discretion to adapt the discharge of delegated responsibilities to the conditions specific to the region.

31.3 Within the limits laid down by the Constitution or by law, regional authorities shall contribute to the management of competences assigned to other territorial authorities.

#### **Article 32: Assignment of executive tasks**

Pursuant to the principle of subsidiarity and within the limits of the law, regional authorities may be assigned responsibility for performing, at regional level, tasks which fall within the competence of the national government.

#### **Article 33: Exercise of ownership**

33.1 Regional authorities shall be entitled to own and utilise property and to transfer ownership or management thereof to inter-regional co-operation structures, public services or other bodies, in the exercise of their competences and responsibilities in the public interest and within the limits of the law.

33.2 Where permitted by law, compulsory acquisition of regional authority assets shall be carried out only in accordance with a legal procedure, for the public benefit and in exchange for fair compensation.

#### **Article 34: Application of the principle of concomitant financing**

34.1 The principle that the financial resources of regional authorities shall be commensurate with their competences and responsibilities and sufficient for the effective discharge of their responsibilities shall be laid down in the constitution or by law.

34.2 Revenue losses incurred by regional authorities as a result of decisions by higher authorities to abolish or reduce regional taxes or decrease the tax base shall be offset with adequate equivalent resources.

34.3 In the event of a transfer of new responsibilities, the resources transferred shall be at least equivalent to those that the authority which originally had these responsibilities allocated to their discharge; these resources may include financial resources, property and/or staff.

34.4 The obligation to transfer adequate resources or authorise the raising of new resources shall also apply in the case of decisions resulting in changes in general cost factors such as wages and salaries, social security costs or environmental protection standards.

#### **Article 35: Own financial resources**

35.1 A substantial proportion of the financial resources of regional authorities shall be derived from charges which they are free to set and from regional taxation (whether exclusive or shared) the level of which they are able to decide, where appropriate within limits predetermined in accordance with the law.

35.2 The proportion of own resources shall be sufficiently large to give regional authorities a real margin for manoeuvre in the discharge of the responsibility incumbent on them in respect of the exercise of their own competences.

#### **Article 36: General and specific grants**

36.1 Systems of general and specific grants shall assure regional authorities of economic and financial stability and take account of factors such as economic growth, cost increases, wages and salary increases and changing social and environmental minima.

36.2 Grants to regional authorities intended to finance specific projects shall be limited in number and shall concern, in particular, cases involving investment and the discharge of delegated responsibilities.

36.3 If grants are conditional on contributions from the regional authorities in receipt of them, the level of contributions shall take account of the financial capacity of these regional authorities.

#### **Article 37: Financial equalisation**

37.1 Financial equalisation shall reduce, on the one hand, disparities in spending needs due to structural factors inherent in regional authorities and, on the other hand, differences in regional authorities' overall financial capacity.

37.2. Equalisation criteria and procedures shall be defined by law and shall be objective, clear, transparent, foreseeable, verifiable and non-discriminatory.

37.3 Equalisation procedures shall aim to achieve an equitable level of equalisation and shall not undermine the exercise of regional self-government or hamper the free administration of regional authorities.

#### **Article 38: Remuneration and protection of elected representatives**

38.1 The conditions of office of elected representatives shall provide for an allowance and/or adequate financial compensation for expenses incurred in the exercise of the office in question as well as, where appropriate, full or partial compensation for loss of earnings or remuneration for the work done and corresponding social welfare protection.

38.2 Regional bodies and elected representatives shall have the right to apply to a court or independent administrative authority against any dissolution, suspension or dismissal decision. Pending the outcome of the judicial proceedings, no sanction shall be taken save in exceptional circumstances provided for by law.

#### **Article 39: Conditions applicable to staff**

39.1 The conditions applicable to regional authority staff shall be such as to permit the recruitment of high-quality staff on the basis of merit and competence, without discrimination on any ground. To this end, they shall afford adequate training opportunities, remuneration and career prospects.

39.2 Without prejudice to more general statutory provisions, regional authorities shall be entitled to determine the administrative structures whereby the services they offer shall be supplied.

#### **Article 40: Information and consultation of the public**

40.1 Regional authorities shall ensure that the public is informed of their activities and guarantee access to documents concerning decisions and policies for which they are responsible.

40.2 Within the limits of the law, regional authorities shall use all means at their disposal to promote the involvement and/or consultation of the public and associations representing the public in their various areas of activity.

#### **Article 41: Transfrontier and inter-regional co-operation agreements and bodies**

41.1 Within the limits of the law and their competences and with due regard for the obligations of the State, regional authorities may enter into transfrontier and/or inter-regional co-operation agreements with public bodies in other States.

41.2 Regional authorities may set up joint transfrontier and/or inter-regional co-operation bodies with legal personality in accordance with the law and, where appropriate, bilateral, multilateral or international treaties governing the establishment and activities of such bodies.

41.3 Regional authorities should be able to benefit from financial resources from the State, European or international institutions and other public bodies designed to finance transfrontier and/or inter-regional co-operation projects.

#### **Article 42: Involvement of regional authorities in decisions concerning them**

42.1 Any decision by a higher authority concerning regional authorities shall be adopted in accordance with a procedure entailing, at least, prior notification of the regional authorities concerned of the decision envisaged, the right of the latter to obtain access to the relevant administrative documents, their entitlement to state their own positions within a reasonable time and the obligation to give reasons for the decision, taking account of the positions they have made known.

42.2 Any decision by a higher authority concerning the balancing of regional authorities' expenditure and the resources at their disposal and the conditions and criteria applicable to financial equalisation and general and specific grants shall be the subject of prior negotiations between the higher authorities and the regional authorities. The negotiation procedure shall always be set in motion before a higher authority takes any decision whereby regional authorities must help to implement policies of interest to various tiers of government.

42.3 Regional authorities' entitlement to be represented by representative associations or other bodies in the various consultation, negotiation and co-operation processes with higher authorities shall be recognised by law.

#### **Article 43: Participation in European and international affairs**

43.1 In so far as the constitution and/or law allow it, regional authorities shall be consulted, through appropriate procedures or bodies, about international negotiations by the State and the implementation of international treaties in which their competences and responsibilities, their essential interests or the scope of regional self-government are at stake. The same shall apply when they are responsible for implementing provisions adopted at European level.

43.2 In order to promote or defend their interests, the regions shall have the right to set up, either individually or collectively with other regional or local authorities, offices abroad responsible for liaising with European organisations active in their spheres of competence.

#### **Article 44: Power of substitution**

44.1 Higher authorities' power of temporary substitution to act in lieu of regional authority organs may be exercised only in exceptional cases and under the procedures provided for by the constitution or by law. This power shall be confined to specific cases where regional authorities have failed duly to exercise the competences vested in them and shall be utilised in accordance with the principle of proportionality in the light of the interests it is designed to protect.

44.2 The decision-making power resulting from a substitution measure shall be entrusted to staff acting solely in the interests of the regional authority concerned, except in the case of delegated responsibilities.

#### **Part IV: Final provisions**

45. Each state shall be free to amend its system of regional self-government in accordance with the principles and rules laid down herein.

46. Each state may, at the time of its accession, determine a transitional period necessary to bring its national law into conformity with this Charter.

47. Each Party may specify parts of its national territory to which the Charter shall not be applicable.

48. None of the provisions of this Charter may be construed as restricting the rights guaranteed to regional authorities under the national law of a state party or provided for in bilateral or multilateral international agreements to which that state is a party.

49. This Charter shall be open for signature by the member States of the Council of Europe. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

50. This Charter shall enter into force on the first day of the month following the expiration of a period of three months after the date on which five member States of the Council of Europe have expressed their consent to be bound by the Charter.

In respect of any member State which subsequently expresses its consent to be bound by it, the Charter shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

51. After the entry into force of this Charter, the Committee of Ministers of the Council of Europe may invite any State not a member of the Council of Europe to accede to this Charter.

In respect of any acceding State, the Charter shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

52. Any Party may at any time denounce this Charter by means of a notification addressed to the Secretary General of the Council of Europe.

Such denunciation shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of the notification by the Secretary General.

53. The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to this Charter of:

- a any signature;
- b the deposit of any instrument of ratification, acceptance, approval or accession;
- c any date of entry into force of this Charter;
- d any notification received in application of this Charter;
- e any other act, notification or communication relating to this Charter.

In witness whereof the undersigned, being duly authorised thereto, have signed this Charter.

Done at Strasbourg, this ... day of ..., in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of

the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to any State invited to accede to this Charter.

