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Congrès des pouvoirs locaux et régionaux de l'Europe



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SECOND SESSION

(Strasbourg, 30 May - 1st June 1995)

REPORT

ON AMENDING THE RULES OF PROCEDURE OF THE CLRAE

(Rapporteur : Mr Bengt MOLLSTEDT, Sweden)

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EXPLANATORY MEMORANDUM

1. The Committee of Ministers of the Council of Europe adopted Statutory Resolution 94(3) establishing the Congress of Local and Regional Authorities of Europe on 14 January 1994.
2. The Charter of the Congress grants the CLRAE full autonomy as to the drafting and adoption of its own Rules of Procedure. Under Article 12, paragraph 1, "the Congress and its Chambers shall adopt their own Rules of Procedure (...)".
3. The Congress of Local and Regional Authorities of Europe adopted Resolution 1 (1994) on the Rules of Procedure of the CLRAE on 31 May 1994.
4. Pending the adoption by the Chambers of their own Rules of Procedure, the Rules of Procedure of the Congress plus a number of special rules applying to the Chambers have been used as a legal framework in which the Chambers could operate.
5. Both Chambers have appointed Rapporteurs on the Rules of Procedure. They are invited to examine and, if possible, adopt their draft Rules of Procedure at their 1995 Plenary Session. If they do so, there will be no need to keep the special section of the Rules of Procedure of the Congress which currently regulates their work, and which should therefore be deleted.
6. When it adopted Resolution number 1 (1994), the Congress asked its Bureau to "examine within one year the question of a possible review of the Rules of Procedure".
7. Under 47, paragraph 3, "the Bureau of the CLRAE may establish a joint working group in charge of the preparation of proposals to amend the Rules of Procedure of the CLRAE".
8. At its meeting on 12-13 September 1994, the Bureau of the CLRAE decided to instruct the working groups in charge of the preparation of the Rules of Procedure of the Chambers to hold joint meetings and prepare proposals to amend the Rules of Procedure of the Congress. The Bureau also asked Mr Bengt Mollstedt (Sweden) to chair this joint group and co-ordinate the elaboration of all three sets of Rules of Procedure.
9. The joint working group has met on several occasions since its constitution and has agreed to put forward a series of proposals to amend the Rules of Procedure of the Congress, which appear in Appendix I.
10. Election of the President of the Congress
  - 10.1 Both Chambers have argued in favour of streamlining the procedure for electing the Presidents and Vice-Presidents of the Chambers, and have adopted simpler, leaner procedures themselves. As a consequence, the

joint working group has decided to change the procedure for electing the President of the Congress along the same lines.

10.2 In particular, the deadline for handing in a member's candidature for the Presidency - usually set at 24 hours before the election - is brought to one hour before the beginning of the first vote. This will allow members of the Congress to virtually hand in last minute candidatures for the highest office.

10.3 Parallel to the decisions made by the working groups of each Chamber, the oldest candidate will no longer be declared elected in the event of a tie. The new rule calls for lots to be drawn to break the tie.

## 11. Standing Committee

11.1 The joint working group has taken advantage from the CLRAE's first year of work, and thus has been able to spot some functional problems that might need some fine-tuning. One such problem - as the Chambers' working groups have pointed out - is the lack of a Standing Committee at a Chamber level. Whereas the Charter sets up two Bureaux, one for each Chamber, there is only one Standing Committee. In practice, this means that the Chambers cannot possibly make their views known whenever they do not meet in Plenary Session. Furthermore, Plenary Sessions take place once a year only for financial reasons. An extraordinary Plenary Session requires the previous agreement of the Committee of Ministers of the Council of Europe. As a result, under the present rules, it is very difficult to organise such extraordinary Sessions.

11.2 New consultation procedures require that the CLRAE express its opinion on a given issue within six months. If the CLRAE deems that the issue on which its opinion is required falls within the exclusive competence of a Chamber and should therefore be referred to it, the deadline will not be met. A mechanism whereby the Chambers can make decisions while not meeting in Plenary Session is badly needed. An urgent solution is required. The Parliamentary Assembly has also mentioned this problem in its recent Resolution 1053 (1995).

11.3 The structure of the Standing Committee reflects the existence of both Chambers. Thus, under Article 7 of the Charter, "the Standing Committee shall consist, from each national delegation, of two representatives. (...) States which are represented in only one Chamber shall have only one seat on the Standing Committee." On 27 March 1995, the members of the Standing Committee belonging to each Chamber held separate informal meetings which proved to be a positive experience.

- 11.4 The solution proposed, therefore, is to let the Standing Committee meet in chamber just as the CLRAE itself does. In the view of the working group, this solution does not violate the Charter. The Standing Committee remains one, only that, reflecting its own internal structure, it can split into two chambers : the chamber of local authorities of the Standing Committee, and the Chamber of Regions of the Standing Committee. These two chambers of the Standing Committee can *approve* documents on behalf of their respective chambers of the Congress, thus filling the said gap in the Charter. Under Article 10.2, all Resolutions, Recommendations and Opinions will still be officially *adopted* by the whole Standing Committee, acting on behalf of the Congress itself. Moreover, meetings in chamber of the Standing Committee will only take place during regular meetings of the Standing Committee or during the Plenary Session.
12. Adoption of draft Resolutions, Recommendations and Opinions prepared by a joint working group
  - 12.1 The current procedure for adopting draft Resolutions, Recommendations and Opinions generated by a joint working group has proved to be slow and overtly burdensome. Rapporteurs are forced to deliver the same presentation three times : before each Chamber, first, and then before the Congress once again.
  - 12.2 However, the presence of members of both Chambers is guaranteed all along the drafting process. By definition, members of both chambers make up the joint working group which prepares the document. By definition, too, members of both Chambers make up the Congress (or its Standing Committee) which finally adopts the document. Moreover, representatives of both Chambers can table amendments to the document while the Congress examines it.
  - 12.3 It is therefore proposed that the middle stage of the current procedure, ie the examination and approval of the draft by both Chambers, be deleted. This will streamline the procedure and make it faster and more agile.
13. Right to table proposals to amend the Charter
  - 13.1 Rule 46 currently allows the Standing Committee and the Bureau of the CLRAE only to "submit [on their own initiative] draft proposals to the Congress to amend the Charter".
  - 13.2 At their request, this right is now extended to the Chambers, too. Yet the decision to submit the proposal to the Committee of Ministers still has to be made by the Congress itself.

14. Supervision of the Rules of Procedure

- 14.1 The Congress has spontaneously made an effort to ensure that the three sets of Rules of Procedure are well co-ordinated. However, neither the Charter nor the Rules of Procedure of the CLRAE entrust this task to a particular body. Theoretically at least, amendments could be tabled without any further supervision, which could potentially lead to problems in the Congress's structure.
- 14.2 With this in mind, the joint working group proposes to give the Standing Committee the right to take initiatives in this respect, and make sure that an appropriate co-ordination of the Rules of Procedure is kept. This, however, does not mean that the Standing Committee should police the Rules of Procedure, nor that it has a final say as to their conformity with the Charter of the CLRAE.

15. Signatures required to start various procedures

- 15.1 The joint working group has realised the Rules of Procedure do not require the same number of signatures to start the procedures it establishes (such as tabling an amendment, or requesting that an item be discussed by urgent procedure). Generally speaking, the number of signatures required is twenty, but there are exceptions.
- 15.2 It is proposed that the same number of signatures be required to start all the procedures established by the Rules. The group is of the opinion that it should not be too high so as not to burden the functioning of the Congress unnecessarily. On the other hand, this requirement should act as a guarantee that the petition is not promoted by a negligible number of delegates (who could thus force the Congress to debate an issue of marginal interest). Moreover, in the light of the international nature of CLRAE, petitions to start a procedure should reflect a consensus among national delegations.
- 15.3 Bearing in mind all this, it is proposed that such petitions should be signed by ten or more delegates belonging to two national delegations at least .

16. Alternates at working groups

- 16.1 The Charter of the Congress allows the Bureaux of the Congress and the Chambers to set up a number of working groups of a maximum of eleven members. These working groups replace the specialised committees which existed in the former Standing Conference of Local and Regional Authorities of Europe.
- 16.2 The first year of existence of such working groups has revealed some minor problems with this new system which need to be solved. For

instance, neither the Charter nor the Rules of Procedure provide for the existence of alternates at working groups. In some cases, this rigidity has lead to a relatively low turnout at working group meetings.

- 16.3 The joint working group puts forward a very flexible solution which should be easy to apply. Whenever a working group member is prevented from attending a meeting, that member can - as an exceptional solution- appoint an alternate of his choosing from among the members of the Chamber to which he belongs. In spite of the requirement of a balanced geographical distribution in the composition of working groups, and bearing in mind the fact that this solution intends to be the exception rather than the rule, there is no need for the alternate to belong to the same national delegation as the member he is replacing. The joint working group deems that a member's experience or knowledge of the field of work of a given group should take over any consideration of his nationality.
- 16.4 All in all, working groups have been active for 8 months only. The general impression is that they should go on working for some more time before the Congress can assess the results of this experience and possibly envisage more important changes to the system.
17. The group is well aware that other aspects of the way the Congress works could be improved. For instance, the role of substitutes in the Chambers seems to bring about some confusion. Yet the group has stayed within the limits of its terms of reference and purposefully avoided tackling any issues which would require a modification of the Charter.
18. Last but not least, the group has made a number of minor proposals which intend, in most cases, to clarify some passages of the Rules which have proved to be ambiguous or difficult to interpret. Other changes - such as those affecting the majorities required for the adoption of a given document - intend to ensure that the three sets of Rules of Procedure are in line with each other.