

# THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

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## Recommendation 156 (2004)<sup>1</sup> on the Council of Europe convention on regional self-government – progress of the draft

The Congress, having before it a proposal from the Chamber of Regions,

1. Having regard to its Recommendation 34 (1997) in which it invites the Committee of Ministers of the Council of Europe to adopt a European charter of regional self-government in the form of an international convention;

2. Recalling Recommendation 1349 (1997) of the Parliamentary Assembly and Opinion No. 300 of 13 December 2000 of the Committee of the Regions of the European Union, all of which support rapid adoption of the Charter on regional self-government in the form of a convention;

3. Having regard to its Resolutions 146 (2002) and 161 (2003) on the progress of intergovernmental work concerning the adoption of a Council of Europe convention on regional self-government;

4. Bearing in mind the opinion expressed in the Congress in 2003 by the representatives of a number of governments – in particular the United Kingdom, Hungary and Italy – concerning the possible adoption of a Council of Europe convention on regional self-government;

5. In view of:

*a.* the Hungarian Government's proposal to hold the 14th Conference of European Ministers responsible for Local and Regional Government in Budapest in the first half of 2005;

*b.* the fact that the 3rd Summit of Heads of State and Government of the Council of Europe will take place in Warsaw (Poland) in 2005;

6. Having examined the report by Giovanni Di Stasi, (Italy, R, SOC) and Karsten Behr (Germany R, EPP/CD), rapporteurs, taking stock of the progress made in preparing a Council of Europe convention on regional self-government since the 10th plenary session of the Congress (Strasbourg, 20-22 May 2003),

7. Notes with satisfaction that, in accordance with the decisions taken at the thirteenth Conference of European Ministers responsible for Local and Regional Government (Helsinki, 27-28 June 2002) and the terms of reference assigned to it by the Committee of Ministers on the basis of these decisions,<sup>2</sup> the Steering Committee for Local and Regional Democracy (CDLR), assisted by its Committee

of Experts on the Framework and Structure of Local and Regional Government (LR-FS):

*a.* has prepared a draft convention on regional self-government and a draft recommendation of the Committee of Ministers of the Council of Europe on regional self-government;

*b.* approved these draft texts at its 33rd meeting (Strasbourg, 17-19 May 2004) and forwarded them to the Committee of Ministers together with an activity report;

8. Wishes to congratulate the CDLR on having succeeded in preparing a draft convention on regional self-government:

*a.* based on the core concepts and principles already drawn up by the CDLR, taking account of the draft charter approved by the Congress in 1997;

*b.* explicitly stipulating that every state has the right to establish regional authorities or not;

*c.* providing for an "à la carte" formula, which, under certain conditions, would allow contracting states to decide to ratify only the provisions which they consider most compatible with their legal system and their system of local and regional government;

*d.* containing a preliminary provision, giving states the possibility of choosing to be bound, as regards their regional authorities, only by the general principles of the convention and otherwise confining themselves to the legal guarantees contained in the European Charter of Local Self-Government (ETS No. 122);

9. With regard to the relationship between the draft convention on regional self-government and the European Charter of Local Self-Government, considers that, in accordance with the proposals set out in Resolution 161 (2003), account could also be taken of the proposal that states should have alternative options for their regional institutions, namely:

*a.* ratifying the European Charter of Local Self-Government (on the basis of Article 13),

*b.* ratifying the convention on regional self-government or,

*c.* ratifying the European Charter of Local Self-Government in respect of specific regions, and ratifying the convention on regional self-government in respect of other regions because of their specific status; if appropriate, still other regions could be excluded from the scope of these two instruments;

10. Considers that the draft convention approved by the CDLR is a legal compromise which might facilitate acceptance of a Council of Europe convention on regional self-government, alongside the European Charter of Local Self-Government, which is already in force;

11. Remains nevertheless convinced that the adoption of a Committee of Ministers recommendation on regional self-government could create an institutional imbalance in European law since, given the existence of the European

Charter of Local Self-Government, such a text would establish an international legal hierarchy between local and regional authorities across the continent;

12. Wishes to point out that an international convention is legally binding only on those states which have accepted it and that – in accordance with its legal character – states are completely free to decide whether to sign and ratify a convention or not;

13. Believes, therefore, that states still opposed to a convention on regional self-government should not prevent those in favour from adopting such an instrument within the Committee of Ministers; although they are entitled to voice their misgivings, states still against the idea should, in a spirit of European fellowship, not make such a convention unavailable to states who have, in principle, expressed their approval;

14. Believes that the legal solutions proposed to make the convention more flexible and to reinforce the right of individual states not to sign and ratify it should ultimately enable all member states of the Council of Europe to agree to this new international legal instrument;

15. In view of the above, invites the Parliamentary Assembly to recommend that the Committee of Ministers adopt, as soon as possible, a Council of Europe convention

on regional self-government on the basis of the draft prepared by the CDLR;

16. Invites the Committee of Ministers to examine the draft Council of Europe convention on regional self-government drawn up by the CDLR with a view to submitting it for opinion to:

*a.* one of the forthcoming Conferences of European Ministers responsible for local and regional government and,

*b.* the 3rd Summit of Heads of State and Government of the Council of Europe;

17. Invites the governments of Council of Europe member states to examine the draft Council of Europe convention on regional self-government drawn up by the CDLR with a view to approving it, where appropriate, at the above-mentioned conference and/or summit, so that it can be rapidly and definitively adopted by the Committee of Ministers.

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1. Debated and approved by the Chamber of Regions on 26 May 2004 and adopted by the Standing Committee of the Congress on 27 May 2004, (see Document CPR (11) 2, draft recommendation presented by G. Di Stasi (Italy, R, SOC) and K. Behr (Germany, R, EPP/CD), rapporteurs).

2. Decision No. CM/850/10.10.2002.