

CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF EUROPE

Resolution 154 (2003)¹ on the place of local and regional self-government in the future Constitutional Treaty of the European Union

The Congress,

1. Approving the decision by the Bureau of the Congress to place on the agenda, as a current affairs debate, a report on the place of local and regional authorities in the future Constitutional Treaty of the European Union;
2. Having regard to the report prepared by the Bureau's rapporteur, Mr Giovanni Di Stasi (Italy);
3. Recalling its Opinion 16 (2002) on the White Paper of the European Commission on European Governance, which sets out in particular the positions of the Congress on recognition of the European Charter of Local Self-Government by the institutions of the European Union;
4. Recalling its Recommendation 118 (2002) on regions with legislative powers, which asks the European Union's Convention on the Future of Europe (hereafter: the European Convention) to take account of the requests made by the Conferences of Presidents of Regions with Legislative Powers held in Barcelona (2000) and Liège (2001);
5. Recalling in this context the subsequent requests made by the Presidents of Regions with Legislative Powers at their third conference, held in Florence in November 2002;
6. Congratulating the Bureau of the Congress on its many initiatives to make known the positions of the Congress to the Praesidium of the Convention for the Future of Europe, not only as regards respect for the principles of local self-government and, in particular, the European Charter of Local Self-Government, but also as regards the more specific requests of regions generally;
7. Having noted in particular the conclusions of the hearing organised by Mr Dehaene, Vice-Chairman of the European Convention, on 30 January 2002, on the role and place of local and regional authorities in the future of the European Union, in which a Congress delegation played an active part;
8. Welcoming Resolution 2002/2141 (INI) of the European Parliament on the role of local and regional authorities in European integration, which supported the proposals by the Congress and the Committee of the Regions aimed at incorporating the European Charter of Local Self-Government into the *acquis communautaire*;

9. Having taken note of the proposals indicated by the European Convention, following its meeting of 7 February 2002, concerning local and regional self-government, and of the draft protocol on the application of the principles of subsidiarity and proportionality which was subsequently prepared and which only partly complies with the requests made by the Committee of the Regions;

10. Stressing that the diversity of local and regional authorities is an asset for Europe and should be respected;

11. Believing that it is also necessary to pay attention to respect for the cultural diversity and cultural and linguistic identity of Europe's regions, which are likely to be jeopardised by the Convention's recent proposals concerning the Union's exclusive competence relating to the conclusion of international agreements on cultural and educational services;

12. Paying tribute to the considerable efforts made by the Committee of the Regions and its six observers on the European Convention to secure recognition of the concerns of the regions and local authorities and strengthen the institutional position of the Committee of the Regions within the Union;

13. Welcoming the agreement between the Committee of the Regions and the Congress on most of the demands put forward by the local and regional authorities – an agreement broadly reflected in the joint positions presented to the European Convention by the European associations of local and regional authorities (AER, AEER, CALRE, CEMR, CPMR and Eurocities);

14. Welcoming the fact that the draft Constitutional Treaty provides that the European Union shall establish all appropriate forms of co-operation with the Council of Europe and that draft Article 5, paragraph 2 provides that the European Union may accede to the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe;

15. Regretting, however, in this context that an equivalent reference to the possibility of accession by the Union to the European Charter of Local Self-Government has not yet been included in Title III of the draft Constitutional Treaty, in particular by way of an addition to Article 9 (6) on respect for the organisation of public authorities at national, regional and local level in the member states;

16. Believes that it is necessary, a few weeks before the Convention on the Future of Europe concludes its work, to put forward the following main proposals aimed at supplementing and strengthening the position of local and regional authorities in the draft Constitutional Treaty:

a. With regard to the Charter of Local Self-Government, add the following paragraph after Article 9, paragraph 6 of the draft Constitutional Treaty: "The Union may accede to the European Charter of Local Self-Government. Accession to this Charter shall not modify the competences of the Union as they are defined in this Constitution.";

b. With regard to prior consultation of local and regional authorities, add the following paragraph after paragraph 2

of the draft protocol on the application of the principles of subsidiarity and proportionality: “The Committee of the Regions shall be consulted by the Commission during the drafting of a legislative act in keeping with respect for the principles of good governance. The organisations representing regions and local authorities may also be consulted.”;

c. With regard to respect for regional and local diversity and identities:

i. add the following sentence after Article 2 of the draft Constitutional Treaty: “The Union shall respect the national, regional and local identities of the member states, in accordance with the principles governing their internal organisation, as well as cultural, linguistic and territorial diversity.”;

ii. add the following sentence after Article 11: “During the negotiation of international agreements by the European Union, the approval of the member states shall be sought whenever respect for the principle of cultural diversity is at stake.”;

d. With regard to the nature of the Union’s legislative acts, add the following paragraph to the draft protocol on the application of the principles of subsidiarity and proportionality, after paragraph 1: “The Union shall preferably have recourse to framework laws. More detailed regulations should only be introduced where this is necessary to achieve the aims pursued. In any event, states, regions and local authorities should be allowed a reasonable margin for manoeuvre when implementing Community standards.”;

e. With regard to the participation of parliaments of member states to the procedure of “early warning”, amend the draft protocol on the application of the principles of subsidiarity and proportionality by adding to paragraph 5, after the words “bicameral parliaments”, the words “by the two chambers”, as long as one of the chambers represents local and regional authorities and/or regions with legislative power;

f. With regard to the status of the Committee of the Regions, incorporate the following paragraphs in Title IV, Article 23 of the draft Constitutional Treaty relating to the Committee of the Regions:

i. the Committee of the Regions shall participate in the democratic life of the Union as the institutional representative of the member states’ local and regional public authorities;

ii. the Commission, Council or Parliament shall consult the Committee of the Regions on proposals for Union framework laws. It shall also be consulted on proposals for delegated or implementing acts likely to have an impact on the powers of local and regional authorities of member states. If they do not follow the opinion of the Committee of the Regions, the Commission and Council must give reasons for their decision. The committee may issue an

opinion on its own initiative whenever it considers this appropriate;

iii. regarding the control of the principle of subsidiarity, the role attributed to the Committee of the Regions, as the institution representing EU local and regional authorities, should be supported. In addition to its access to the European Court of Justice in cases of infringements of the principle of subsidiarity, already included in the draft Constitutional Treaty, the Committee of the Regions should have a stronger role in the early warning mechanism alongside national parliaments;

g. With regard to the partnership with the local and regional authorities, add to the provisions concerning the democratic life of the Union an article worded as follows: “The Union recognises that an active partnership with all levels of national, regional and local government is necessary for the development and effective implementation of Community legislation and policies. The committee shall conclude tripartite contacts with the member states and the regional and/or local authorities whenever that is necessary to achieve the aims pursued, while respecting the member states’ constitutional systems.”;

h. With regard to the principle of territorial cohesion, add to Article 3, paragraph 2 of the draft Constitutional Treaty, after the words “economic and social”, the words “and territorial”;

i. With regard to transfrontier co-operation, add to Article 3 of the draft Constitutional Treaty on the Union’s objectives, a new paragraph worded as follows: “The Union shall promote and support cross-border and inter-territorial co-operation, including twinnings and exchanges of experience both within the Union and on its external borders.”;

17. Instructs its Bureau to transmit this resolution immediately:

a. to the Convention on the Future of Europe, asking it to submit it to its members for consideration;

b. to the Committee of the Regions, so that its observers on the Convention can support the resolution;

c. to the European Commission, to obtain its support for the proposals of the Congress;

d. to the Committee of Ministers of the Council of Europe, for its transmission to the governments of the member states concerned.

1. Debated and adopted by the Congress on 22 May 2003, 3rd Sitting (see Document CG (10) 12 revised, draft resolution presented by Mr G. Di Stasi, rapporteur).