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Conference of European ministers responsible for local and regional government

13th Session, Helsinki, 27 – 28 June 2002

Helsinki Declaration on Regional Self-Government

HELSINKI DECLARATION
ON REGIONAL SELF-GOVERNMENT

THE MINISTERS ATTENDING THE 13TH SESSION OF THE CONFERENCE OF EUROPEAN MINISTERS RESPONSIBLE FOR LOCAL AND REGIONAL GOVERNMENT, MEETING IN HELSINKI ON 27-28 JUNE 2002:

Having, in a first working session under the theme “Regional self-government and subsidiarity - European models and principles”, had a valuable exchange of experiences and views with regard to regional self-government, regionalisation, decentralisation and the implementation of the principle of subsidiarity;

Having, in a second working session under the theme “Regional self-government and subsidiarity – Detailed examination of the texts prepared by the Steering Committee on Local and Regional Democracy (CDLR)”, held an exchange of views on the said texts;

Having considered the request by the Committee of Ministers to express, in light of the completed groundwork, an opinion on the nature of the instrument to be adopted by the Council of Europe on regional self-government;

Whereas many member States of the Council of Europe are in the process of either reforming or introducing regional self-government;

Whereas there exists a wide diversity in the models and forms of regional self-government in Europe, stemming from the different constitutional traditions and socio-economic, cultural, and geographical circumstances specific to each state;

Whereas it is possible, as illustrated by the work carried out by the CDLR, to elaborate a set of core concepts and principles which are common to all models of regional self-government;

SOLEMNLY DECLARE THAT :

1. a functioning democracy is the basis for peace, stability, prosperity and development;
2. the increasing decentralisation and devolution of government across Europe over the past decades has contributed to the strengthening of democracy, both in states with long democratic traditions and in the newer democracies;
3. the process of decentralisation and devolution reflects the shared conviction that economic growth, sustainable regeneration, quality public services and full democratic participation can be more effectively facilitated if governmental institutions are not overly centralised;
4. it is a matter for each state to decide whether or not to establish regional authorities and in fact not all states have them;

5. the Council of Europe has an important role to play in promoting and sustaining effective democracy among all its member States, at both national and sub-national level;
6. the Council of Europe provides a privileged meeting place for European governments to address issues of local and regional government and to engage in dialogue at European level with the elected representatives of local and regional authorities as brought together in the Congress of Local and Regional Authorities of Europe (CLRAE);
7. the statutory aim of the Council of Europe “to achieve greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage” is successfully pursued by the setting of common standards in the areas of its competence, which include democratic governance;
8. the European Charter of Local Self-Government, ratified by 37 member States, has had a significant positive influence on the development of local government and democracy in Europe;
9. regional self-government, where it exists, is a part of democratic governance and thus such regional authorities as are established must meet minimum standards of democratic composition and be endowed with the legal competence and the ability, within the limits of the constitution and the law, to regulate and manage a share of public affairs under their own responsibility, in the interest of their population and in accordance with the principle of subsidiarity;
10. the Council of Europe should further promote the exchange of good practice among member states highlighting general principles identified from member states’ experience;
11. 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;

ACCORDINGLY, THEY ACKNOWLEDGE THAT SUCH A LEGAL INSTRUMENT

12. should respect the sovereignty, identity and freedom of states to determine their own internal organization, whilst conforming to these common principles ;
13. should be broad enough to recognise the wide variety of democratic forms of regional self-government;

14. should make it clear that every state has the right to decide whether or not to establish regional authorities;
15. should not upset the principle of equality between local and regional authorities with respect to autonomy, where this principle is established by the constitution or by law;
16. should not lead to the creation of a scale of relative values between different models of regional autonomy;
17. should allow the states a degree of choice in order to take account of specific characteristics of their regional self-government system;

Noting that the question of the nature of the legal instrument to be adopted is the subject of diverging views;

Aware that a number of legal issues need to be addressed in greater depth in order to enable decisions to be taken with a full understanding of all the implications of such a choice;

EXPRESS THE OPINION THAT:

18. the Council of Europe should aim to adopt a legal instrument on regional self-government that
 - a. is based on the core concepts and principles already drawn up by the CDLR¹;
 - b. stipulates expressly that every state has the right to establish regional authorities or not;
 - c. provides member states with a degree of choice in order to take account of specific characteristics of their regional self-government system;
 - d. ensures a harmonious coexistence with the European Charter of Local Self-Government (ECLSG);

RECOMMEND TO THE COMMITTEE OF MINISTERS:

19. to develop and reinforce the work of the Council of Europe in the field of local and regional democracy, including by facilitating the sharing and promotion of experience with regional self-government;
20. to continue and improve the dialogue at European level between governments and local and regional elected representatives as brought together in the CLRAE;

¹ See Appendix

21. to give terms of reference to the Steering Committee on Local and Regional Democracy to elaborate drafts for legal instruments of different types, having regard to the proposals made during the Conference and to the developing experiences of member states, and addressing the need for an appropriate relationship with the ECLSG.

APPENDIX

Core concepts and common principles on regional self-government identified by the CDLR

A. Core concepts and principles

1.1. Regional authorities are territorial authorities between the central government and local authorities. This does not necessarily imply a hierarchical relationship between regional and local authorities.

1.2. Regional self-government denotes the legal competence and the ability of regional authorities, within the limits of the constitution and the law, to regulate and manage a share of public affairs under their own responsibility, in the interests of the regional population and in accordance with the principle of subsidiarity.

1.3. Where regional authorities exist², the principle of regional self-government shall be recognized in domestic legislation and/or by the constitution, as appropriate.

B. Common principles

1. Regional competences

1.1. Regional competences shall be defined by the constitution, the statutes of the region or by national law. Regional authorities shall, within the limits of the law and/or the constitution, have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority. Regulation or limitations of regional competences shall be based on the constitution and/or law.

1.2. Regional authorities shall have decision-making and administrative powers in the areas covered by their own competences. These powers shall permit the adoption and implementation of policies specific to the region. Decision-making powers may include legislative powers.

1.3. For specific purposes and within the limits of the law, competences may be conferred upon regional authorities by other public authorities.

1.4. When powers are delegated to regional authorities, they shall be allowed discretion to adapt the exercise thereof to regional conditions, within the framework set out by the constitution and/or the law.

2. Relations with other sub-national territorial authorities

2.1. The relationship between regional authorities and other sub-national territorial authorities shall be governed by the principles of regional self-government set out in this document and local self-government set out in the European Charter of Local Self-Government and the principle of subsidiarity.

² Whether this phrase is kept or not will depend on the nature of the legal instrument.

2.2. Regional authorities and other sub-national territorial authorities may, within the limits of the law, define their mutual relationship and they may co-operate with each other.

3. Involvement in the State decision-making process

3.1. Regional authorities shall have the right as described in paragraphs 3.2 and 3.3 below to be involved in state decision-making affecting their competences and essential interests or the scope of regional self-government.

3.2. This involvement shall be ensured through representation in decision making bodies and/or through consultation and discussion between the state and regional authorities concerned. Where appropriate, participation may also be ensured through consultation and discussion between state authorities and representative bodies of regional authorities.

3.3. In so far as the constitution and/or the law enable it, regional authorities and/or their representative bodies shall be represented or consulted, through appropriate bodies and/or procedures, with regard to international negotiations of the state and the implementation of treaties in which their competences or the scope of regional self-government are at stake.

4. Supervision of regional authorities by State authorities

4.1. Any supervision of regional authorities by central state authorities shall normally only aim at ensuring their compliance with the law. However, the supervision of delegated powers may also include an appraisal of expediency.

4.2. Administrative supervision of regional authorities may be exercised only according to such procedures and in such cases as are provided for by constitutional or legislative provisions. Such supervision shall be exercised *ex post facto* and any measures taken must be proportionate to the importance of the interests which it is intended to protect.

5. Protection of regional self-government

5.1. Regional authorities may be provided for by the constitution or established by law. The existence of regions, once established, is guaranteed by the constitution and/or by law and may be revoked only by the same due process of amendment of the Constitution and/or law that established them.

5.2. Regional authorities shall have the right of recourse to a judicial remedy in order to secure the free exercise of their powers and respect for the principles of regional self-government enshrined in domestic law.

5.3. Regional boundaries shall not be altered without prior consultation of the region(s) concerned. Prior consultation may include a referendum.

6. Right of association and other forms of co-operation

Regional authorities shall be entitled to form associations and to undertake activities of interregional co-operation in matters within their competences and within the framework of the law. Regional authorities may also be members of international organisations of regional authorities.

7. External relations

7.1. In so far as national and/or European law allows, regional authorities shall have the right to be involved in or to be represented through bodies established for this purpose in the activities of the European institutions.

7.2. Regional authorities may co-operate with territorial authorities of other countries within the framework of their competences and in accordance with the law, the international obligations and the foreign policy of the state.

8. Self-organisation of regional authorities

Where a constitution and/or the law provide the right for regions to decide their internal organisation, including their statutes and their institutions, it will define this right as widely as possible.

9. Regional bodies

9.1. Regional authorities shall have a representative assembly. Executive functions, where they are not exercised directly by the representative body, shall be entrusted to a person or a body answerable to it in accordance with the conditions and procedures laid down by the law. Where the executive body is directly elected by the population, it needs not necessarily be answerable to the representative assembly but should give it account of its acts.

9.2. Regional assemblies shall be directly elected through free and secret ballot based on universal suffrage, or indirectly elected by and composed of popularly elected representatives of constituent local self-government authorities.

9.3. The conditions of office of elected regional representatives shall provide for the free exercise of their functions. They shall allow for appropriate financial allowance and/or for appropriate 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 work done and corresponding social welfare protection. Members of the assembly shall have the right to express themselves freely during the meeting of this assembly. Any functions and activities which are deemed incompatible with the representative's office shall be determined by law.

9.4. Where sanctions against regional elected representatives are possible, they must be provided for by the law, be proportionate to the importance of the interest they are intended to protect and be subject to judicial review. Suspension and dismissal may only be foreseen in exceptional cases.

10. Regional administration

10.1. Regional authorities shall have their own assets, their own administration and their own staff.

10.2. Regional authorities shall freely determine the internal structures of their administrative system and their bodies, within the framework defined by law.

10.3. The conditions of service of regional authorities' staff shall comply with general principles of public service and be such as to permit the recruitment of high quality staff on the basis of merit and competence; to this end adequate training opportunities, remuneration and career prospects shall be provided.

11. Financial resources of regional authorities

11.1. Regional authorities shall have at their disposal foreseeable resources commensurate with their competences and responsibilities allowing them to implement these competences effectively.

11.2. Regional authorities shall be able to dispose freely of their resources, for the implementation of their competences.

11.3. In the implementation of their own competences, regional authorities shall be able to rely in particular on resources of their own at which they shall be able to dispose freely. These resources may include regional taxes, other revenues decided by regional authorities, fixed shares of state taxes, non-earmarked funding from the state and constituent territorial authorities, in accordance with the law.

11.4. The financial systems on which resources available to regional authorities are based shall be of a sufficiently diversified and buoyant nature to enable them to keep pace as far as practically possible with the real evolution of the cost of carrying out their tasks.

12. Financial equalization and transfers

12.1. The protection of financially weaker regional authorities shall be ensured through financial equalisation procedures or equivalent measures which are designed to correct the effects of the unequal distribution of potential sources of finance and of the financial burden they must support. Such procedures or measures should not have the effect of restricting the financial resources of regional authorities to the extent of hindering their freedom of administration.

12.2. Financial transfers to regional authorities shall be governed by predetermined rules based on objective criteria related to regional competences. As far as possible, grants to regional authorities shall not be earmarked for the financing of specific projects.

12.3. Financial transfers to regional authorities shall not limit the basic freedom of regional authorities to exercise policy discretion in the implementation of their competences.

12.4 For the purpose of borrowing for capital investment, regional authorities shall have access to the capital market within the limits of the law.