

TWELFTH SESSION

(Strasbourg, 31 May – 2 June 2005)

Recommendation 164 (2005)¹ on local and regional democracy in Denmark

The Congress,

1. Recalling:

- a. Article 2, paragraph 3 of the Committee of Ministers' Statutory Resolution (2000)¹, which stipulates that the Congress shall prepare on a regular basis country-by-country reports on the situation of local and regional democracy in all member states and in states which have applied to join the Council of Europe, and shall ensure, in particular, that the principles of the European Charter of Local Self-Government are implemented;
- b. Congress Resolutions 31 (1996), 58 (1997) and 106 (2000) defining the principles for the preparation of such reports;
- c. its decision to prepare a monitoring report on the situation of local and regional democracy in Denmark;
- d. that Denmark was among the first signatory states of the European Charter of Local Self-Government and that, since it ratified it in 1988, Denmark has been bound by this international legal instrument in its entirety;
- e. that the provisions of the European Charter of Local Self-Government apply to the Danish municipalities (*kommuner*) as well as to the Danish counties (*amtskommuner*), and that the Charter does not apply to Greenland and the Faroe Islands;
- f. that Denmark is also bound by the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities as well as by the Convention on the Participation of Foreigners in Public Life at Local Level;
- g. Recommendation (2004) 12 of the Committee of Ministers to member states on the processes of reform of boundaries and/or structure of local and regional authorities;
- h. Recommendation (2001) 19 of the Committee of Ministers to member states on the participation of citizens in local public life as well as the principles laid down in the Revised European Charter on the Participation of Young People in Local and Regional Life;
- i. the Helsinki Declaration on regional self-government, adopted by the European Ministers responsible for local and regional government in Helsinki in June 2002 which lays down concepts and principles for the setting-up, organisation and functioning of regional self-governments, while at the same time recognising the wide diversity in the models and forms of regional self-government in Europe;
- j. the explanatory memorandum on the situation of local and regional democracy in Denmark prepared by rapporteurs Kathryn Smith (United Kingdom), Roberto Ruocco (Italy) and Karsten Behr (Germany) based on the results of the official visits to Copenhagen on 2-3 September 2004 and 29-31 March 2005².

2. Thanking:

- a. the Danish Government and the Danish Parliament (*Folketing*) for their co-operation and their constructive attitude during the preparation of the report;
- b. the national associations "Danish Regions" and "Local Government Denmark" as well as those representatives of local authorities and citizens' associations for the information they provided during the visits of the Congress delegation and for their welcome and hospitality;
- c. Professor Zoltan Szente, member of the Group of Independent Experts of the Institutional Committee of the Congress, for having acted as a consultant in the preparation of the report on the situation of local and regional democracy in Denmark.

3. Considering that:

- a. a broad reform of the Danish public administration is underway and should be effective as from 1st January 2007;
- b. this reform was launched with a view to developing the performance of the public sector in such a way that it can meet the requirements of the future, and to improve democracy so that the citizens and the users of public services can be involved more actively in the decisions of public policy;
- c. this reform will modify the current structure of regional and local government in Denmark in particular:

i. by dissolving the existing 13 county self-governments and by creating five regional self-governments;

ii. by reducing the number of local self-governments to set up larger municipalities or binding partnerships between municipalities, so as to allow them to provide better quality public service.

d. every local self-government has been consulted and invited to express a wish regarding amalgamation with other municipality(ies);

e. an independent evaluation institute under the Ministry of the Interior and Health will be set up as from 1st January 2006 to systematically monitor decentralised public task performance in the public sector;

f. a reflection aiming at creating the basis for enhancing participatory democracy in Denmark has been launched with a wide range of organisations and associations;

g. until the reform comes into force on 1st January 2007, the term of office of the members of municipal to be included in a merger and of members of county councils will be prolonged over 2006, though they were elected in 2001 for a four-year term of office according to the electoral legislation in force in Denmark;

h. though the application of the European Charter of Local Self-Government in its entirety to local and regional authorities is desirable, member states can opt for applying only part of its provisions under the terms of paragraph 1 of Article 12 of the Charter.

4. Welcoming:

a. the objectives pursued by the reform, which aim at setting-up a more efficient public sector, deliver better public services without increasing current taxation levels, improving health-care services all over the country, establishing clearer responsibilities between administration levels and enhance participatory democracy;

b. the large consensus achieved at the local level in Denmark about the reform, since the reform process was launched in October 2002.

5. Regretting however that:

a. since the new regions will not be covered by the Danish Local Government Act of 1968 and are not considered by the Danish Government as the successors to the counties, the Danish Government might decide to leave them out of the scope of the European Charter on Local Self Government;

b. the new regions will primarily be assigned the responsibility for health-care and, besides that, they will be entrusted with no full nor exclusive supplementary competencies;

c. the new distribution of competencies among public administration levels will also imply a transfer of the current counties' competencies to the central government;

d. the new regions will not have the right to levy taxes;

e. the new regions may not have the right to associate with other regions or municipal governments in order to carry out tasks of common interest;

f. in a very small number of municipalities, the reform has been contentious and does not appear to carry the support of the local community;

g. support of the reform from the regional level was not achieved and that the majority in Parliament supporting the reform was narrow.

6. Recommends that:

a. the Danish Government, the Danish Parliament and other relevant authorities take into account the following recommendations when finalising the reform and after its entry into force:

i. the new five regions which will be set-up as from 1 January 2007 be covered by the European Charter of Local Self-Government preferably in its entirety, by considering to en-

sure that the new regions:

- are entrusted with sufficient, full and exclusive competencies in accordance with Article 4, paragraph 4 of the Charter;
- are given the right to levy taxes in accordance with Article 9, paragraph 3 of the Charter;
- have the right to associate with other regions in order to carry out tasks of common interest as provided for in Article 10, paragraph 1 of the Charter.

or, where necessary, in ensuring that the five new regions be covered by most of the principles of the Charter, by requesting certain exemptions to its application, in accordance with Article 12, paragraph 1 of the Charter;

- ii. local and regional authorities be represented and fully involved in the work of the Evaluation Institute which will be set up to monitor the performance of the reform;
- iii. pursue efforts to come up with more elaborated proposals aiming at enhancing participatory democracy as one of the main goals of the reform underway;
- iv. in those municipalities where a decision on amalgamation is still to be made, find appropriate solutions based on broad consultation, and respectful as far as possible of the wishes expressed by the local councils and the citizens;
- v. ensure that the Danish delegation to the Congress is composed during 2006 according to the principles set out in Article 2, paragraph 2 of the Charter of the Congress and of Article 3, paragraph 1 of Statutory Resolution (2000) 1.

b. the Committee of Ministers of the Council of Europe instruct the Steering Committee on Local and Regional Democracy (CDLR) to look into the possible consequences of the reform of the Danish public administration in the fulfilment of Denmark's international obligations under the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities.