Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 470 (1966)[1]

Draft Convention on European co-operation between local authorities

Parliamentary Assembly

The Assembly,

1. Considering that co-operation between local authorities of different European countries is desirable and has indeed become a necessity in certain frontier zones ;

2. Considering that many local authorities are being forced to resort to inter-municipal co-operation in order to discharge their functions, and in particular to meet certain demands imposed upon them by contemporary civilisation ;

3. Considering that machinery for intermunicipal co-operation between authorities of different countries is unsatisfactory and that the absence of any firm legal framework complicates co-operation of local authorities across frontiers ;

4. Considering that international contacts between local authorities have nevertheless multiplied in the processes of European unification and the lowering of the former barriers of national frontiers ;

5. Considering that it is worth while and necessary to provide local authorities in frontier areas of member States with adequate means to offset the drawbacks of their peripheral location by working together across frontiers, and to extend their national possibilities for co-operation to the European level ;

6. Considering that frontier zones feel more and more the need for co-ordination of local and regional activities on opposite sides of frontiers and harmonisation of their development plans,

7. Recommends the Committee of Ministers :

a. to draw the attention of member Governments to the problem of European co-operation between local authorities ;

b. to instruct a committee of governmental experts to prepare as early as possible a draft convention based on the text appended hereto ;

c. to submit the draft Convention, after being prepared by the committee of experts, if necessary, to the Assembly and the European Conference of Local Authorities for an opinion or to communicate the text to these bodies ;

d. also to instruct a committee of experts to make a comparative study of the possibilities for intermunicipal co-operation in member countries with a view to facilitating co-operation across frontiers between local authorities.

1. Assembly Debate on 29th September 1966 (15th Sitting) (see Doc. 2109) , report of the Committee on Local Authorities). Text adopted by the Assembly on 29th September 1966 (15th Sitting).

Appendix APPENDIX

Draft European Convention on co-operation between local authorities

The Governments signatory hereto, being Members of the Council of Europe ;

Considering that the aim of the Council of Europe is to achieve a greater unity between its Member and to promote co-operation between them ;

Considering that Article 1 of the Statute of the Council of Europe provides that this aim shall be pursued inter alia by agreements in administrative matters ;

Considering that the Council of Europe desires to ensure the participation of local authorities in the achievement of its aims as defined in Article 1 of the Charter of the European Conference of Local Authorities ;

Having regard to past experience, which shows that co-operation between local authorities in different countries makes it easier for them to carry out their tasks effectively and contributes in particular to the improvement and development of frontier zones ;

Being resolved to provide local authorities with the means required to establish co-operation and to promote in this way the formation of communities bearing tangible witness to the spirit of fellowship which unites the peoples of Europe,

Have agreed as follows :

CHAPTER I - General provisions

Article 1

1. The Contracting Parties undertake to promote and facilitate steps taken by local authorities to establish co-operation across frontiers for the solution of common problems.

2. The Contracting Parties recognise the right of local authorities within their jurisdiction to co-operate in one of the forms described below and subject to the conditions there laid down.

3. The Contracting Parties if necessary shall take internal measures required to eliminate any legal or administrative obstacles to such co-operation.

Article 2

4. For the purpose of this Convention the term "European co-operation between local authorities" shall mean co-operation between local authorities in two or more countries in local government matters.

5. The term "local authority" shall mean any public authority with territorial competence and any groups, federations, associations or consortia to which such authorities belong.

Article 3

This Convention shall apply to all local authorities whether adjacent or not, in the territory of the Contracting Parties on condition that they are empowered, under national law, to conclude in their own country agreements similar to those provided for in this Convention.

Article 4

6. Local authorities may co-operate with one another in one of the following ways : setting up of study and co-ordination groups, the making of contracts for services or supplies, participation in associations or consortia sharing common interests.

7. However, this Convention shall not prejudice other forms and possibilities of co-operation across frontiers as are authorised by member countries, such as those based on private law or international treaty.

CHAPTER II - Study and co-ordination group

Article 5

8. For the purposes of information, the study of common problems or the co-ordination of joint activities, local authorities in different countries may institute co-operation groups in matters within their sphere of competence on the basis of mutual agreements.

9. Co-operation groups set up by such agreements shall study measures to be taken by their various member authorities and shall make recommendations, without, however, restricting the said members' powers of decision.

10. A group may ask individuals, administrations, or public or private firms to take part in its work.

Article 6

11. The co-operation agreement shall define the manner of co-operation, shall specify, in particular, the tasks entrusted to the group and the means whereby they are to be carried out.

12. The co-operation agreement shall specify the membership and working methods of any committees provided for. It may also make provision for a joint secretariat and lay down rules regarding its functioning.

Article 7

Without prejudice to the provisions of national law, the deliberations of local authorities containing their decision to set up a study and co-ordination group shall be communicated to the superior authorities on which the said local authorities depend.

CHAPTER III - Contracts for services or supplies

Article 8

13. With a view to improving public services or for other reasons, especially economic ones, local authorities in different countries shall be authorised to negotiate and prepare draft contracts for services or supplies to one or more local authorities in one country by one or more local authorities in another country. Such contracts may provide for the carrying out of public works, for supplies to local authorities and the population within their territory, and the provision of other services (hospital services, teaching, sports facilities, fire-fighting assistance etc).

14. The right to negotiate shall not be subject to prior approval. However, the contract shall not relate to services or supplies which fall outside the competence of the contracting local authorities or in respect of which national law does not authorise intervention by another local authority.

15. Local authorities shall inform their national authorities of the opening of official negotiations.

Article 9

16. Local authorities which undertake the provision of services and supplies shall assume full responsibility for them and shall be liable to the local authority which entrusted them with such services or supplies.

17. Such local authorities shall also be liable to users and third parties. However, the latter shall retain, as against the local authorities on whose behalf the services or supplies are being provided, all such rights and remedies as they would possess if these authorities had remained responsible for providing the services or supplies.

Article 10

18. The contract shall prescribe the manner of co-operation, the rights and obligations of the parties, and, if relevant, those of users and third parties as well as specifying the law applicable.

19. The services or supplies shall conform strictly to the mandatory rules of law in force in the country where they are to be provided.

20. Unless otherwise agreed, the contract shall be subject to the law of the country where the local authority responsible for the provision of the services and supplies is located, subject to the provisions of paragraph 2 above.

21. For the discharge of the obligations and the protection of interests arising from the contract, each party to the contract, and the persons within their jurisdiction, shall be entitled to have recourse to the administrative and judicial authorities of the various countries under the same conditions as the physical and legal persons of those countries.

Article 11

22. The contract and any amendments thereto shall take effect only after delivery of such authorisation or approval as is prescribed by the national law of the countries concerned.

23. Should it not be possible to grant such authorisation or approval, the competent authorities shall indicate, as far as possible, the means for best achieving the aims of the wouldbe contractual parties.

Article 12

The Contracting Parties undertake to allow local authorities who conclude a same advantages and financial facilities as they would allow them for independent or joint action in a national context.

Article 13

The co-operation contract may specify that services or supplies will be provided through a public or private body in a specified manner.

CHAPTER IV - Associations or consortia of local authorities

Article 14

For matters which they are empowered under their national law to deal with in the framework of an association or consortium, local authorities may join associations or consortia of local authorities formed in the territory of another Contracting Party in accordance with the latter's national law.

Article 15

24. The associations or consortia referred to in Article 14 shall be entitled to carry on their activities in the territory of each of the Contracting Parties concerned. They shall be subject to the mandatory rules of law in force in the State concerned and, unless express exception is made, to their suppletory provisions.

25. The rules laid down in Article 9 shall apply to obligations resulting from the activities of the association or consortium in performing the functions entrusted to it.

Article 16

26. The agreement setting up the association or consortium and any special regulations therein or amendments thereto shall be approved by the competent authority according to the rules of the national law of each of the member local authorities. The same rules shall be applicable for admission to associations or consortia already set up.

27. Such agreements and approvals shall be made known to the populations concerned as prescribed in each country. The same shall apply to any transfer of the headquarters and any decisions concerning the persons empowered to enter into commitments on behalf of the association or consortium and the extent of their powers.

28. The aforementioned instruments shall be drawn up in the official languages in use in the countries in which they are to apply, each text being equally authoritative.

Article 17

29. Each Contracting Party undertakes to give the association or consortium or its member bodies for activities engaged in on behalf of its citizens, the same advantages and facilities which it would give to national bodies in similar circumstances.

30. The Contracting Parties undertake to grant the authorisations required by the association or consortium for the accomplishment of the task entrusted to it, with any necessary reservations in respect of ordre public and national security.

Article 18

Where the national law of a State does not accord to an association or consortium on its territory the powers, rights and advantages necessary for the satisfactory fulfilment of tasks performed on behalf of the local authorities of that State, the said local authorities shall have the right and duty to intervene on behalf of the association or consortium with a view to exercising or obtaining the said powers, rights and advantages.

Article 19

31. The supervision or control of the association or consortium shall be exercised in accordance with national law by the competent authorities of the countries where it has its headquarters. The competent authorities shall also safeguard the interests of the member authorities in other countries.

32. The competent authorities in the other countries concerned shall have a right to be informed of the activities or decisions of the association or consortium and of any action taken by the authorities exercising supervision or control. On request, they shall receive the texts of decisions and minutes of meetings of the association or consortium or its organs, the annual accounts and the draft budget, if there is one, in so far as the submission of these documents to the supervisory authorities is required by national law. Competent authorities in the other countries may communicate directly with the organs of the association or consortium and with the authorities exercising supervision over it, and may submit comments to them and ask to be consulted directly in certain cases and on certain matters.

Article 20

33. Failing settlement, disputes relating to the operation of the association or consortium and arising between it and its members shall be referred to the administrative and judicial authorities of the State in which the association or consortium has its headquarters.

34. All other disputes relating to the activities of the association or consortium may be referred to the administrative and judicial authorities of the countries which are competent ratione materiae and ratione loci.

35. For the execution of the obligations arising from the procedure set out in the foregoing paragraphs, recourse may be had to the competent administrative and judicial authorities in the various countries.

36. The association or consortium shall be deemed to be domiciled at the headquarters of each of its member authorities, except those located within the country of its headquarters.

CHAPTER V - Final clauses

Article 21

This Convention shall not restrict the freedom or power of action accorded in national law to local authorities either as regards their powers or the conditions or manner in which those powers are exercised.

Article 22

37. On depositing its instrument of ratification, any Contracting Party may declare that its acceptance does not extend to Chapter IV on associations or consortia of local authorities.

38. Denounciation.

Article 23

Signature, ratification, entry into force of the Convention.