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COUNCIL OF EUROPE
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Resolution 1334 (2003)[1]

Positive experiences of autonomous regions as a source of inspiration for conflict resolution in Europe

Parliamentary Assembly

1. The resurgence of tensions in Europe, which vary in intensity and are frequently the product of unresolved conflicts within states, remains a cause of concern to the Parliamentary Assembly. Today, indeed, most political crises in Europe occur within states.

2. These renewed tensions are partly due to the territorial changes and the emergence of new states following the two world wars and the collapse of the former communist system in the 1990s.

3. These tensions also reflect the necessary adaptation of the concept of the nation-state, which viewed national sovereignty and cultural homogeneity as essential. Nowadays, particularly in view of developments in the practice of democracy and international law, states are faced with new requirements.

4. Most of the present conflicts can often be traced to the dichotomy between the principle of the indivisibility of states and the principle of identity, and are rooted in tensions between states and minority groups which demand the right to preserve their identities.

5. The vast majority of European states today include communities which have different identities. Some of these demand their own institutions, and special laws allowing them to express their distinctive cultures.

6. States must prevent tensions from developing by introducing flexible constitutional or legislative arrangements to meet minorities' expectations. By giving minorities powers of their own, either devolved or shared with central government, states can sometimes reconcile the principle of territorial unity and integrity with the principle of cultural diversity.

7. The Council of Europe, which is committed to peace and to the prevention of violence asessential to the promotion of human rights, democracy and the rule of law, believes that the positive experience of autonomous regions can be a source of inspiration in seeking ways to resolve internal political conflicts.

8. Many European states have already eased internal tensions, or are now in the process of doing so, by introducing territorial or cultural autonomy, embodying a wide range of principles and concrete measures which can help to resolve internal conflicts.

9. There is no denying that autonomy is a concept which can have negative connotations. It can be seen as a threat to the state's territorial integrity and a first step towards secession, but there is frequently little evidence to sustain this view.

10. Autonomy, as applied in states respectful of the rule of law which guarantee their nationals fundamental rights and freedoms, should rather be seen as a "sub-state arrangement", which allows a minority group within a state to exercise its rights and preserve its cultural identity, while providing certain guarantees of the state's unity, sovereignty and territorial integrity.

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1. Assembly debate on 24 June 2003 (19th Sitting) (see Doc. 9824, report of the Political Affairs Committee, rapporteur: Mr Gross; and Doc. 9837, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Jurgens). Text adopted by the Assembly on 24 June 2003 (19th Sitting).

11. The term “territorial autonomy” applies to an arrangement, usually adopted in a sovereign state, whereby the inhabitants of a certain region are given enlarged powers that reflect their specific geographical situation and protect and promote their cultural and religious traditions. The term “cultural autonomy” implies enabling linguistic and cultural rights to be exercised. In the majority of cases, this should go hand in hand with the application of the principle of decentralisation.

12. The constitutions of most Council of Europe member states do not recognise the right to secede unilaterally. However, indivisibility must not be confused with the concept of the unitary state, and the indivisibility of the state is thus compatible with autonomy, regionalism and federalism.

13. Autonomous status may be applied to various systems of political organisation, ranging from a type of decentralisation in unitary states to a genuine division of powers, either symmetrically or asymmetrically, in regional or federal states.

14. In the past, autonomy was introduced in two stages, and had three sources, being established by regional entities when central states were founded, introduced to resolve territorial tensions, or sponsored by the international community.

15. Autonomy is not a panacea, and the solutions it offers are not universally relevant and applicable. However, failure should be blamed not on autonomy as such, but on the conditions in which it is applied. Autonomous status must always be tailored to the geography, history and culture of the area concerned, and to the very different characteristics of specific cases and conflict zones.

16. With a view to relieving internal tensions, central government must react with understanding when minority groups, particularly when they are sizeable and have lived in an area for a long period of time, demand greater freedom to manage their own affairs independently. At the same time, the granting of autonomy must never give a community the impression that local government is a matter for that community alone.

17. Successful autonomy depends on balanced relationships within a state between majorities and minorities, but also between minorities themselves. Autonomous status must always respect the principles of equality and non-discrimination, and be based on the territorial integrity and sovereignty of states.

18. It is of great importance that the increasing benefits which autonomous entities gain from their rights do not undermine the internationally recognised borders of states.

19. All interpretation, application and management of autonomy shall be subject to the authority of the state, and to the determination and motivation of the national parliament and its institutions.

20. Positive discrimination, i.e. favourable representation in the organs of central government, can often be used to involve a minority or minorities more effectively in the management of national affairs.

21. It is fundamental that special measures must also be taken to protect “minorities within minorities”, and ensure that the majority and other minorities do not feel threatened by the powers conferred on an autonomous entity. In these autonomous entities, the Framework Convention for the Protection of National Minorities (ETS No. 157) must also be applied, for the benefit of minorities within minorities.

22. The Assembly calls on the governments of member states to respect the following basic principles when granting autonomous status:

22.1. autonomous status, which by its very nature depends on co-operation and co-ordination between central authorities and autonomous authorities, must be based on an agreement negotiated between the parties concerned;

22.2. central authorities and autonomous authorities must recognise that autonomous status is part of a dynamic process and is always negotiable;

22.3. it would be appropriate for the statutes and founding principles underlying autonomous status to be included in states’ constitutions rather than in their legislation alone, so that amendments can only be made in accordance with the constitution. To avoid later disputes, agreements on autonomous status must explicitly define the repartition of powers between the central and autonomous authorities;

22.4. agreements on autonomous status must guarantee the appropriate representation and effective participation of the autonomous authorities in decision-making and the management of public affairs;

22.5. autonomous status must provide autonomous entities with legislative and executive authorities, which are democratically elected at local level.

22.6. autonomous status must provide for funds and/or transfers which allow autonomous authorities to exercise the extra powers conferred on them by central government;

22.7. to ensure that powers are not abused, special machinery must be established to resolve disputes between central authorities and autonomous authorities;

22.8. if tensions between central authorities and autonomous authorities persist, the international community should sponsor the negotiation process;

22.9. devolution of powers to autonomous entities must imperatively protect the rights of minorities living within them.