

International Charters on Local Self-Government

European Charter and World Charter

January 2008

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Introduction

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1. EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT

Preamble

The member States of the Council of Europe, signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

Considering that one of the methods by which this aim is to be achieved is through agreements in the administrative field;

Considering that the local authorities are one of the main foundations of any democratic regime;

Considering that the right of citizens to participate in the conduct of public affairs is one of the democratic principles that are shared by all member States of the Council of Europe;

Considering that it is at local level that this right can be most directly exercised;

Convinced that the existence of local authorities with real responsibilities can provide an administration which is both effective and close to the citizen;

Aware that the safeguarding and reinforcement of local self-government in the different European countries is an important contribution to the construction of a Europe based on the principles of democracy and the decentralisation of power;

Asserting that this entails the existence of local authorities endowed with democratically constituted decision-making bodies and possessing a wide degree of autonomy with regard to their responsibilities, the ways and means by which those responsibilities are exercised and the resources required for their fulfilment,

Have agreed as follows:

Article 1

The Parties undertake to consider themselves bound by the following articles in the manner and to the extent prescribed in Article 12 of this Charter.

Part I

Article 2 – Constitutional and legal foundation for local self-government

The principle of local self-government shall be recognised in domestic legislation, and where practicable in the constitution.

Article 3 – Concept of local self-government

1. Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.
2. This right shall be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them. This provision shall in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by statute.

Article 4 – Scope of local self-government

1. The basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute. However, this provision shall not prevent the attribution to local authorities of powers and responsibilities for specific purposes in accordance with the law.
2. Local authorities shall, within the limits of the law, 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.
3. Public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen. Allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and economy.
4. Powers given to local authorities shall normally be full and exclusive. They may not be undermined or limited by another, central or regional, authority except as provided for by the law.
5. Where powers are delegated to them by a central or regional authority, local authorities shall, insofar as possible, be allowed discretion in adapting their exercise to local conditions.

6. Local authorities shall be consulted, insofar as possible, in due time and in an appropriate way in the planning and decision-making processes for all matters which concern them directly.

Article 5 – Protection of local authority boundaries

Changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute.

Article 6 – Appropriate administrative structures and resources for the tasks of local authorities

1. Without prejudice to more general statutory provisions, local authorities shall be able to determine their own internal administrative structures in order to adapt them to local needs and ensure effective management.
2. The conditions of service of local government employees shall 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.

Article 7 – Conditions under which responsibilities at local level are exercised

1. The conditions of office of local elected representatives shall provide for free exercise of their functions.
2. They shall allow for appropriate financial compensation for expenses incurred in the exercise of the office in question as well as, where appropriate, compensation for loss of earnings or remuneration for work done and corresponding social welfare protection.
3. Any functions and activities which are deemed incompatible with the holding of local elective office shall be determined by statute or fundamental legal principles.

Article 8 – Administrative supervision of local authorities' activities

1. Any administrative supervision of local authorities may only be exercised according to such procedures and in such cases as are provided for by the constitution or by statute.

2. Any administrative supervision of the activities of the local authorities shall normally aim only at ensuring compliance with the law and with constitutional principles. Administrative supervision may however be exercised with regard to expediency by higher-level authorities in respect of tasks the execution of which is delegated to local authorities.
3. Administrative supervision of local authorities shall be exercised in such a way as to ensure that the intervention of the controlling authority is kept in proportion to the importance of the interests which it is intended to protect.

Article 9 – Financial resources of local authorities

1. Local authorities shall be entitled, within national economic policy, to adequate financial resources of their own, of which they may dispose freely within the framework of their powers.
2. Local authorities' financial resources shall be commensurate with the responsibilities provided for by the constitution and the law.
3. Part at least of the financial resources of local authorities shall derive from local taxes and charges of which, within the limits of statute, they have the power to determine the rate.
4. The financial systems on which resources available to local 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.
5. The protection of financially weaker local authorities calls for the institution of 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 shall not diminish the discretion local authorities may exercise within their own sphere of responsibility.
6. Local authorities shall be consulted, in an appropriate manner, on the way in which redistributed resources are to be allocated to them.
7. As far as possible, grants to local authorities shall not be earmarked for the financing of specific projects. The provision of grants shall not remove the basic freedom of local authorities to exercise policy discretion within their own jurisdiction.
8. For the purpose of borrowing for capital investment, local authorities shall have access to

the national capital market within the limits of the law.

Article 10 – Local authorities' right to associate

1. Local authorities shall be entitled, in exercising their powers, to co-operate and, within the framework of the law, to form consortia with other local authorities in order to carry out tasks of common interest.
2. The entitlement of local authorities to belong to an association for the protection and promotion of their common interests and to belong to an international association of local authorities shall be recognised in each State.
3. Local authorities shall be entitled, under such conditions as may be provided for by the law, to co-operate with their counterparts in other States.

Article 11 – Legal protection of local self-government

Local authorities shall have the right of recourse to a judicial remedy in order to secure free exercise of their powers and respect for such principles of local self-government as are enshrined in the constitution or domestic legislation.

2. INITIAL DRAFT TEXT OF A WORLD CHARTER OF LOCAL SELF-GOVERNMENT

Preamble

The States Parties to the present Charter:

- Recognising that many global problems, as evidenced in Agenda 21 and the Habitat Agenda, must be dealt with at the local level and cannot be successfully resolved without intensified dialogue and co-operation between the State level and local authorities;
- Recognising local authorities as the closest partners of central governments and as essential in the implementation of Agenda 21 and the Habitat Agenda;
- Recalling the principle, recognised in article 21 of the Universal Declaration of Human Rights, that the will of the people is the basis of the authority of governments at all levels.
- Convinced that the principle of subsidiarity is the basis for democratic and participatory development and that any allocation of tasks and responsibilities should abide by this principle;
- Committed to promoting decentralisation through democratic local authorities and to strengthen their financial and institutional capacities;
- Convinced that gender equality and social inclusion must go hand in hand with local democracy and participation and that these goals are mutually reinforcing;
- Further committed to facilitating and enabling the broad-based participation of all people and their community organizations in decision-making and in the implementation and monitoring of human settlements strategies, policies and programmes;
- Convinced that strong local democracy through freely elected local authorities, together with professional standards and conduct in local administration, offer the means of fostering public accountability and strengthening our societies against corruption;
- Convinced that the existence of strong local authorities with clear roles and responsibilities and adequate resources ensures services which are both effective and close to the citizens.

Have agrees as follows:

Article 1

The States Parties undertake to consider themselves bound by the following articles in the manner and to the extent prescribed in Article 14 of this Charter.

Part I

Article 2 – Constitutional and legal foundation for local self-government

The principle of local self-government shall be recognised in national legislation, and where practicable guaranteed in the constitution.

Article 3 – Concept of local self-government

1. Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.
2. This right shall be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them.

Article 4 – Scope of local self-government

1. Local authorities shall have full discretion to exercise their initiative with regard to all matters which are not excluded by law from their competence nor assigned to any other authority.
2. The basic powers and responsibilities of local authorities shall be prescribed by the constitution or by law. However, this provision shall not prevent the attribution to local authorities of powers and responsibilities for specific purposes.
3. In accordance with the principle of subsidiarity, public responsibilities shall generally be exercised by those authorities, which are closest to the citizen. In the same spirit, any

allocation of responsibility to another authority must be based on the requirements of technical or economic efficiency.

4. Powers given to local authorities shall normally be full and exclusive. They should not be undermined, and may not be limited by another authority except as provided for by law.
5. Where powers are delegated to them by a central or regional authority, local authorities shall be given discretion in adapting their implementation to local conditions.
6. Local authorities shall be involved in due time and in an appropriate way in the planning and decision-making processes for all matters which affect them.

Article 5 – Protection of local authority boundaries

Changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is legally permitted.

Article 6 – Appropriate administration structures and resources for the tasks of local authorities

1. Local authorities shall be enabled to determine their own internal administrative structures, to adapt them to local needs, and to ensure effective management.
2. Local authorities shall be supported by higher levels of government in the development of administrative, technical and managerial capacities and of structures which are responsive, transparent and accountable.
3. The conditions of service of local government employees shall be such as to permit the recruitment and retention of high-quality staff on the basis of professional competence and experience, and of gender equality; to this end adequate training opportunities, remuneration and career prospects shall be provided.

Article 7 – Conditions under which responsibilities at local level are exercised

1. The conditions of office of locally elected representatives shall guarantee free exercise of their functions.

2. They shall allow for appropriate reimbursement of expenses incurred in the exercise of the office in question as well as, where appropriate, compensation for loss of earnings or remuneration for work done and corresponding social protection.
3. Any functions and activities which are deemed incompatible with the holding of local elective office shall be specified by law.

Article 8 – Supervision of local authorities' activities

1. Any supervision of local authorities may only be exercised according to such procedures and in such cases as are provided for by the constitution or by law.
2. Any supervision of the activities of local authorities shall aim only at ensuring compliance with the law and with constitutional principles. In respect of tasks the execution of which is delegated to local authorities, administration supervision by higher level authorities may however go beyond legal control to ensure conformity with national policy.
3. Supervision of local authorities shall be exercised when necessary in due proportion to the interests which it is intended to protect.
4. If the constitution or national law permits the suspension or dissolution of local councils or the suspension or dismissal of local executives, this shall be done in accordance with due process of law. Their functioning shall be restored within as short a period of time as possible which shall be prescribed by law.

Article 9 – Financial resources of local authorities

1. Local authorities shall be entitled to adequate financial resources of their own, of which they may dispose freely within the framework of their powers.
2. Local authorities' financial resources shall be commensurate with their tasks and responsibilities.
3. A reasonable proportion of the financial resources of local authorities shall derive from local taxes, fees and charges of which they have the power to determine the rate.

4. Taxes which local authorities shall be entitled to levy, or of which they receive a guaranteed share, shall be of a sufficiently general, buoyant and flexible nature to enable them to keep pace with their responsibilities.
5. The protection of financially weaker local authorities requires a system of vertical and horizontal financial equalisation.
6. Local authorities shall participate in framing the rules governing the general apportionment of redistributed resources.
7. As far as possible, financial allocations to local authorities shall respect their priorities and shall not be earmarked for specific projects. The provision of grants shall not remove the basic freedom of local authorities to exercise policy discretion within their own jurisdiction.
8. For the purpose of borrowing for capital investment, local authorities shall have access to the national and international capital markets.

Article 10 – Participation of citizens and partnership

1. Local authorities shall be entitled to define appropriate forms of popular participation and civic engagement in decision-making and in fulfilment of their function of community leadership.
2. Local authorities shall be empowered to establish and develop partnerships with all actors of civil society, particularly non-governmental organizations and community-based organizations, and with the private sector and other interested stakeholders.

Article 11 – Associations of local authorities

1. Local authorities shall be entitled, in exercising their powers, to form associations for the defence and promotion of their common interests as well as in order to provide certain services to their members, and to co-operate and form legal entities with other local authorities in order to carry out asks of common interest.
2. Other levels of government shall consult associations of local authorities when preparing legislation affecting local government.

Article 12 – International Co-operation

1. Local authorities' right of association shall include that of belonging to international associations of local authorities.
2. Local authorities shall also be entitled, by law or international treaties, to co-operate with their counterparts in other countries, including in transfrontier regions.
3. Local authorities shall be involved, in the spirit of partnership, in the negotiation and implementation of international plans of action concerning their roles and areas of responsibility.

Article 13 – Legal protection of local self-government

Local authorities shall have the right of recourse to judicial remedy in order to safeguard their autonomy and to ensure compliance with the laws which determine their functions and protect their interests.

Part II – Miscellaneous provisions

Article 14 – Undertakings

1. Each State Party undertakes to consider itself bound by at least twenty paragraphs of Part I of the Charter, at least ten of which shall be selected from among the following paragraphs:
 - Article 2,
 - Article 3, paragraphs 1 and 2,
 - Article 4, paragraphs 1, 2 and 4,
 - Article 5,
 - Article 7, paragraph 1,
 - Article 8, paragraph 2,

- Article 9, paragraphs 1, 2 and 3,
 - Article 11, paragraph 1,
 - Article 13.
2. Each State Party, when depositing its instrument of ratification or accession, shall notify to the Secretary-General of the United Nations the paragraphs selected in accordance with the provisions of paragraph 1 of this Article.
 3. Any State Party may, at any later time, notify the Secretary-General that it considers itself bound by any paragraphs of this Charter which it has not already accepted under the terms of paragraph 1 of this Article.
 4. Such undertakings subsequently given shall be deemed to be an integral part of the ratification or accession of the State Party so notifying, and shall have the same effect as from the thirtieth day after the date of the receipt of the notification by the Secretary-General.

Article 15 – Authorities to which the Charter applies

The principles of local self-government contained in the present Charter apply to all the categories of local authorities existing within the territory of the State Party. However, each State Party may, when depositing its instrument of ratification or accession, specify the categories of local or regional authorities to which it intends to confine the scope of the Charter or which it intends to exclude from its scope. It may also include further categories of local or regional authorities within the scope of the Charter by subsequent notification to the Secretary-General of the United Nations.

Article 16 – Provision of information

Each State Party shall forward periodically to the Secretary-General of the United Nations all relevant information concerning legislative provisions and other measures taken by it for the purposes of complying with the terms of this Charter.

Article 17 – Monitoring

For the purpose of assessing progress in the implementation of the present Charter, a monitoring committee shall be established by States Parties. This committee shall include representatives of local authorities. Its secretariat shall be provided by the United Nations.

Part III

Article 18 – Signature and ratification

1. The present Charter shall be open for signature by all States.
2. The present Charter is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Charter shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 19 – Entry into force

1. The present Charter shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying or acceding to the Charter after the deposit of the twentieth instrument of ratification or accession, the Charter shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 20 – Territorial clause

1. Any State Party may, at the time of signature or when depositing its instrument of ratification or accession, specify the territory or territories to which this Charter shall apply.
2. Any State Party may at any later date, by a declaration addressed to the Secretary-General of the United Nations, extend the application of this Charter to any other such territory specified in the declaration. In respect of territory the Charter shall enter into force on the thirtieth day after the date of receipt of such declaration by the Secretary-General.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary-General. The withdrawal shall become effective on the thirtieth day after the date of receipt of such notification by the Secretary-General.

Article 21 – Denunciation

A State Party may denounce the present Charter by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 22 – Notifications

The Secretary-General of the United Nations is designated as the depositary of the present Charter.

The Secretary-General shall notify the member States of the United Nations of:

- (a) any signature;
- (b) the deposit of any instrument of ratification or accession;
- (c) any date of entry into force of this Charter in accordance with Article 19;
- (d) any notification received in application of the provisions of Article 14, paragraphs 2 and 3;
- (e) any notification received in application of the provisions of Article 15;
- (f) any other act, notification or communication relating to this Charter.

Article 23 – Authenticity of text

The original of the present Charter of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

In witness thereof the undersigned plenipotentiaries, being duly authorised thereto by their respective Governments, have signed the present Charter.