

Additional Protocol  
to the European Outline Convention  
on Transfrontier Co-operation  
between Territorial Communities  
or Authorities

Protocole additionnel  
à la Convention-cadre européenne  
sur la coopération transfrontalière  
des collectivités  
ou autorités territoriales

The Council of Europe member States signatory to this Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (hereinafter referred to as "the Outline Convention"),

Affirming the importance of transfrontier co-operation between territorial communities or authorities in border areas ;

Being resolved to take further measures to secure transfrontier co-operation between territorial communities or authorities;

Wishing to facilitate and develop transfrontier co-operation between territorial communities or authorities situated in border areas ;

Acknowledging the need to adapt the Outline Convention to the actual situation in Europe;

Considering that it would be appropriate to supplement the Outline Convention with a view to reinforcing transfrontier co-operation between territorial communities or authorities;

Having regard to the European Charter of Local Self-Government;

Bearing in mind the Declaration on transfrontier co-operation in Europe which the Committee of Ministers made on the occasion of the 40th anniversary of the Council of Europe and which, among other things, called for continued action in order to gradually remove barriers of any kind – administrative, legal, political or psychological – to curb the development of transfrontier projects,

Have agreed the following additional provisions:

#### Article 1

- 1 Each Contracting Party shall recognise and respect the right of territorial communities or authorities under its jurisdiction and referred to in Articles 1 and 2 of the Outline Convention to conclude transfrontier co-operation agreements with territorial communities or authorities of other States in equivalent fields of responsibility, in accordance with the procedures laid down in their statutes, in conformity with national law and in so far as such agreements are in keeping with the Party's international commitments.
- 2 A transfrontier co-operation agreement shall entail only the responsibilities of the territorial communities or authorities which have concluded it.

#### Article 2

Decisions taken jointly under a transfrontier co-operation agreement shall be implemented by territorial communities or authorities within their national legal system, in conformity with their national law. Decisions thus implemented shall be regarded as having the same legal force and

effects as measures taken by those communities or authorities under their national legal system.

### Article 3

A transfrontier co-operation agreement concluded by territorial communities or authorities may set up a transfrontier co-operation body, which may or may not have legal personality. The agreement shall specify whether the body, regard being had to the responsibilities assigned to it and to the provisions of national law, is to be considered a public or private law entity within the national legal systems to which the territorial communities or authorities concluding the agreement belong.

### Article 4

- 1 Where the transfrontier co-operation body has legal personality, such personality shall be as defined in the law of the Contracting Party in which its headquarters are located. The legal personality of the body is recognised by the other Contracting Parties which have territorial communities or authorities party to the transfrontier agreement in conformity with their own national law.
- 2 The transfrontier co-operation body shall perform the responsibilities assigned to it by the territorial communities or authorities in accordance with its purpose and in the manner provided for in the national law by which it is governed. Thus:
  - a action by the transfrontier co-operation body shall be governed by its statute and by the law of the headquarters State;
  - b the transfrontier co-operation body shall not, however, be empowered to take measures which apply generally or which might affect the rights and freedoms of individuals;
  - c the transfrontier co-operation body shall be financed from the budgets of the territorial communities or authorities. It shall not be empowered to impose levies of a fiscal nature. It may, where appropriate, receive revenue in respect of services provided by it to territorial communities or authorities, users or third parties ;
  - d the transfrontier co-operation body shall have an annual estimated budget and shall draw up a balance-account which shall be approved by auditors independent of the territorial communities or authorities party to the agreement.

### Article 5

- 1 The Contracting Parties may, if their national law allows it, decide that the transfrontier co-operation body is to be a public law entity and that, for the purposes of each Contracting Party's legal system, any measures which it takes are to have the same legal force and effects as if they had been taken by the territorial communities or authorities which concluded the agreement.
- 2 However, the agreement may stipulate that it is for the territorial communities or authorities which concluded the agreement to execute such measures, especially where the measures may affect the rights, freedoms and interests of individuals. Moreover, each Contracting Party may provide that general responsibilities cannot be attributed to the transfrontier co-operation body and that such a body shall not be empowered to take measures which apply generally.

#### **Article 6**

- 1 Measures taken by territorial communities or authorities under a transfrontier co-operation agreement shall be subject to the same supervision as the law of each Contracting Party prescribes in respect of any measure taken by the territorial communities or authorities concluding the agreement.
- 2 Measures taken by a transfrontier co-operation body set up under an agreement shall be subject to the supervision provided for in the law of the State in which the body's headquarters are located, keeping in mind, in addition, the interests of territorial communities or authorities of other States. The transfrontier co-operation body shall comply with information requests made by the authorities of the States to which the territorial communities or authorities belong. The supervisory authorities of the Contracting Parties shall endeavour to establish means of appropriate co-ordination and information.
- 3 Measures taken by a body as referred to in paragraph 1 of Article 5 shall be subject to the same supervision as the law of each Contracting Party prescribes in respect of any measure taken by the territorial-communities or authorities concluding the agreement.

#### **Article 7**

Any disputes arising from a transfrontier co-operation body's activities shall be referred to the courts which are competent under internal law or under an international agreement.

#### **Article 8**

- 1 Each Contracting Party shall declare, when signing this Protocol, or when depositing the instrument of ratification, acceptance or approval, whether it will apply the provisions of Articles 4 and 5 or of one of those articles only.
- 2 Such a declaration can be modified at any subsequent time.

#### **Article 9**

No reservations to the provisions of this Protocol shall be allowed.

#### **Article 10**

- 1 This Protocol shall be open for signature by the States which have signed the Outline Convention, which may express their consent to be bound by either:
  - a signature without reservation as to ratification, acceptance or approval ; or
  - b signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.
- 2 A member State of the Council of Europe may not sign this Protocol without reservation as to ratification, acceptance or approval, or deposit an instrument of ratification, acceptance or approval, unless it has already deposited or simultaneously deposits an instrument of ratification, acceptance or approval of the Outline Convention.
- 3 The instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

**Article 11**

- 1 This Protocol shall come into force three months after the date on which four member States of the Council of Europe have expressed their consent to be bound by the Protocol, in accordance with the provisions of Article 10.
- 2 In respect of any member State which subsequently expresses its consent to be bound by it, the Protocol shall come into force three months after the date of its signature or deposit of instrument of its ratification, acceptance or approval.

**Article 12**

- 1 After the entry into force of this Protocol, any State which has acceded to the Outline Convention may also accede to the Protocol.
- 2 Accession shall be effected by the deposit with the Secretary General of the Council of Europe of an instrument of accession which shall take effect three months after the date of its deposit.

**Article 13**

- 1 Any Contracting Party may, at any time, denounce this Protocol by means of notification addressed to the Secretary General of the Council of Europe.
- 2 Such denunciation shall become effective six months after the date of receipt of the notification by the Secretary General.

**Article 14**

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe and any State which has acceded to this Protocol of:

- a any declarations submitted by the Contracting Parties in conformity with Article 8;
- b any signature ;
- c the deposit of any instrument of ratification, acceptance, approval or accession ;
- d any date of entry into force of this Protocol, in accordance with Articles 11 and 12;
- e any other measure, notification or communication relating to this Protocol.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg, this 9th day of November 1995, in English and French, both texts being equally authentic, in a *single* copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to any State invited to accede to this Protocol.

En foi de quoi, les soussignés, dûment autorisés a cet effet, ont signé le présent Protocole.

Fait à Strasbourg, le 9 novembre 1995 en français et en anglais, les deux textes faisant également foi, en un seul exemplaire qui sera déposé dans les archives du Conseil de l'Europe. Le Secrétaire General du Conseil de l'Europe en communiquera copie certifiée conforme à chacun des Etats membres du Conseil de l'Europe et à tout Etat invite à adhérer au present Protocole.

For the Government  
of the Republic of Albania:

Pour le Gouvernement  
de la République d'Albanie:

For the Government  
of the Principality of Andorra:

Pour le Gouvernement  
de la Principauté d'Andorre:

For the Government  
of the Republic of Austria :

Pour le Gouvernement  
de la République d' Autriche :

**For the Government  
of the Kingdom of Belgium :**

**Pour le Gouvernement  
du Royaume de Belgique :**

**For the Government.  
of the Republic of Bulgaria:**

**Pour le Gouvernement  
de la République de Bulgarie:**

**For the Government  
of the Republic of Cyprus :**

**Pour le Gouvernement  
de la République de Chypre :**

**For the Government  
of the Czech Republic :**

**Pour le Gouvernement  
de la République tchèque :**

**For the Government  
of the Kingdom of Denmark :**

**Pour le Gouvernement  
du Royaume de Danemark :**

For the Government  
of the Republic of Estonia:

Pour le Gouvernement  
de la République d'Estonie :

For the Government  
of the Republic of Finland :

Pour le Gouvernement  
de la République de Finlande :

For the Government  
of the French Republic :

Pour le Gouvernement  
de la République française :

*sous réserve de ratification  
ou d'acceptation*

Michel LENNUYEYX-COMNENE

For the Government  
of the Federal Republic of Germany :

Pour le Gouvernement  
de la République fédérale d'Allemagne :

*with reservation in respect  
of ratification or acceptance*

Hans-Friedrich von PLOETZ

For the Government  
of the Hellenic Republic:

Pour le Gouvernement  
de la République hellénique:



For the Government  
of the Republic of Hungary:

Pour le Gouvernement  
de la République de Hongrie :

For-the Government  
of the Icelandic Republic:

Pour le Gouvernement  
de la République islandaise:

For the Government  
of Ireland :

Pour le Gouvernement  
d'Irlande:

For the Government  
of the Italian Republic:

Pour le Gouvernement  
de la République italienne:

For the Government  
of the Republic of Latvia :

Pour le Gouvernement  
de la République de Lettonie:

For the Government  
of the Principality of Liechtenstein :

Pour le Gouvernement  
de la Principauté de Liechtenstein :

For the Government  
of the Republic of Lithuania:

Pour le Gouvernement  
de la République de Lituanie :

-

For the Government  
of the Grand Duchy of Luxembourg :

Pour le Gouvernement  
du Grand-Duché de Luxembourg:

*sous réserve de ratification  
ou d'acceptation*

Jacques F. POOS

For the Government  
of Malta :

Pour le Gouvernement  
de Malte :

For the Government  
of the Republic of Moldova :

Pour le Gouvernement  
de la République de Moldova :

For the Government  
of the Kingdom of the Netherlands:

Pour le Gouvernement  
du Royaume des Pays-Bas:

For the Government  
of the Kingdom of Norway :

Pour le Gouvernement  
du Royaume de Norvège :

For the Government  
of the Republic of Poland :

Pour le Gouvernement  
de la République de Pologne

For the Government  
of the Portuguese Republic:

Pour le Gouvernement  
de la République portugaise :

For the Government  
of Romania:

Pour le Gouvernement  
de la Roumanie :

For the Government  
of the Republic of San Marino :

Pour le Gouvernement  
de la Republique de Saint-Marin :

For the Government  
of the Slovak Republic :

Pour le Gouvernement  
de la République slovaque :

For the Government  
of the Republic of Slovenia:

Pour le Gouvernement  
de la Republique de Slovénie :

For the Government  
of the Kingdom of Spain :

Pour le Gouvernement  
du Royaume d'Espagne :

For the Government  
of the Kingdom of Sweden :

Pour le Gouvernement  
du Royaume de Suede :

*with reservation in respect  
of ratification or acceptance*

Jan ELIASSON

For the Government  
of the Swiss Confederation :

Pour le Gouvernement  
de la Confédération suisse :

For the Government  
of the Turkish Republic:

Pour le Gouvernement  
de la République turque :

For the Government  
of the United Kingdom of Great Britain  
and Northern Ireland :

Pour le Gouvernement  
du Royaume-Uni de Grande-Bretagne  
et d'Irlande du Nord :

Certified a true copy of the sole original  
document, in English and in French, de-  
posited in the archives of the Council of  
Europe.

Copie certifiée conforme à l'exemplaire  
original unique en langues française et  
anglaise, déposée dans les archives du  
Conseil de l'Europe.

Strasbourg, 4 décembre 1995

The Director of the Legal Affairs  
of the Council of Europe,

Le Directeur des Affaires juridiques  
du Conseil de



Guy DE VEL