CONVENȚIA-CADRU EUROPEANĂ ASUPRA COOPERĂRII TRANSFRONTALIERE A COLECTIVITĂȚILOR SAU AUTORITĂȚILOR TERITORIALE*

ADOPTATĂ LA MADRID, LA 21 MAI 1980

EUROPEAN OUTLINE CONVENTION ON TRANSFRONTIER CO-OPERATION BETWEEN TERRITORIAL COMMUNITIES OR AUTHORITIES

ADOPTED AT MADRID ON 21 MAY 1980

**În vigoare pentru Republica Moldova din 1 februarie 2001.*

Preamble

THE MEMBER STATES OF THE COUNCIL OF EUROPE, signatories to this Convention,

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

CONSIDERING that, as defined in Article 1 of the Council of Europe Statute, this aim will be pursued in particular by agreements in the administrative field;

CONSIDERING that the Council of Europe shall ensure the participation of the territorial communities or authorities of Europe in the achievement of its aim;

CONSIDERING the potential importance, for the pursuit of this objective, of co-operation between territorial communities or authorities at frontiers in such fields as regional, urban and rural development, environmental protection, the improvement of public facilities and services and mutual assistance in emergencies;

HAVING regard to past experience which shows that co-operation between local and regional authorities in Europe makes it easier for them to carry out their tasks effectively and contributes in particular to the improvement and development of frontier regions;

BEING resolved to promote such co-operation as far as possible and to contribute in this way to the economic and social progress of frontier regions and to the spirit of fellowship which unites the peoples of Europe,

HAVE AGREED AS FOLLOWS:

Article 1

Each Contracting Party undertakes to facilitate and foster transfrontier co-operation between territorial communities or authorities within its jurisdiction and territorial communities or authorities within the jurisdiction of other Contracting Parties. It shall endeavour to promote the conclusion of any agreements and arrangements that may prove necessary for this purpose with due regard to the different constitutional provisions of each Party.

Article 2

1.For the purpose of this Convention, transfrontier co-operation shall mean any concerted action designed to reinforce and foster neighbourly relations between territorial communities or authorities within the jurisdiction of two or more Contracting Parties and the conclusion of any agreement and arrangement necessary for this purpose. Transfrontier co-operation shall take place in the framework of territorial communities' or authorities' powers as defined in domestic law. The scope and nature of such powers shall not be altered by this Convention.

2. For the purpose of this Convention, the expression "territorial communities or authorities" shall mean communities, authorities or bodies exercising local and regional functions and regarded as such under the domestic law of each State. However, each Contracting Party may, at the time of signing this Convention or by subsequent notification to the Secretary General of the Council of Europe, name the communities, authorities or bodies, subjects and forms to which it intends to confine the scope of the Convention or which it intends to exclude from its scope.

Article 3

1. For the purpose of this Convention the Contracting Parties shall, subject to the provisions of Article 2, paragraph 2, encourage any initiative by territorial communities and authorities inspired by the outline arrangements between territorial communities and authorities drawn up in the Council of Europe. If they judge necessary they may take into consideration the bilateral or multilateral inter-state model agreements drawn up in the Council of Europe and designed to facilitate co-operation between territorial communities and authorities.

The arrangements and agreements concluded may be based on the model and outline agreements, statutes and contracts appended to this Convention, numbered 1.1 to 1.5 and 2.1 to 2.6 with whatever changes are required by the particular situation of each Contracting Party. (1)□ These model and outline agreements, statutes and contracts are intended for guidance only and have no treaty value.

2. If the Contracting Parties deem it necessary to conclude inter-state agreements, these may inter alia establish the context, forms and limits within which territorial communities and authorities concerned with transfrontier co-operation may act. Each agreement may also stipulate the authorities or bodies to which it applies.

3. The above provisions shall not prevent the Contracting Parties from

having recourse, by common consent, to other forms of transfrontier co-operation. Similarly, the provisions of this Convention should not be interpreted as invalidating existing agreements on co-operation.

4. Agreements and arrangements shall be concluded with due regard to the jurisdiction provided for by the internal law of each Contracting Party in respect of international relations and general policy and to any rules of control or supervision to which territorial communities or authorities may be subject.

5. To that end, any Contracting Party may, when signing the present Convention or in a later communication to the Secretary General of the Council of Europe, specify the authorities competent under its domestic law to exercise control or supervision with regard to the territorial communities and authorities concerned.

Article 4

Each Contracting Party shall endeavour to resolve any legal, administrative or technical difficulties liable to hamper the development and smooth running of transfrontier co-operation and shall consult with the other Contracting Party or Parties concerned to the extent required.

Article 5

The Contracting Parties shall consider the advisability of granting to territorial communities or authorities engaging in transfrontier co-operation in accordance with the provisions of this Convention the same facilities as if they were co-operating at national level.

Article 6

Each Contracting Party shall supply to the fullest possible extent any information requested by another Contracting Party in order to facilitate the performance by the latter of its obligations under this Convention.

Article 7

Each Contracting Party shall see to it that the territorial communities or authorities concerned are informed of the means of action open to them under this Convention.

Article 8

1. The Contracting Parties shall forward to the Secretary General of the

Council of Europe all relevant information concerning the agreements and arrangements provided for in Article 3.

2. Any proposal made by one or more Contracting Parties with a view to adding to or extending this Convention or the model agreements and arrangements shall be communicated to the Secretary General of the Council of Europe. The Secretary General shall then submit it to the Committee of Ministers of the Council of Europe which shall decide on the action to be taken.

Article 9

1. This Convention shall be open to signature by the member States of the Council of Europe. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2. The Convention shall enter into force three months after the date of the deposit of the fourth instrument of ratification, acceptance or approval, provided that at least two of the States having carried out this formality possess a common frontier.

3. In respect of a signatory State ratifying, accepting or approving subsequently, the Convention shall come into force three months after the date of the deposit of its instrument of ratification, acceptance or approval.

Article 10

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may decide unanimously to invite any European non-member State to accede thereto. This invitation must receive the express agreement of each of the States which have ratified the Convention.

2. Such accession shall be effected by depositing with the Secretary General of the Council of Europe an instrument of accession which shall take effect three months after the date of its deposit.

Article 11

1. Any Contracting Party may, in so far as it is concerned, denounce this Convention by means of notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall take effect six months after the date of receipt by the Secretary General of such notification.

Article 12

The Secretary General of the Council of Europe shall notify the member

States of the Council of Europe, and any State that has acceded to this Convention of:

(a) any signature;

b) any deposit of an instrument of ratification, acceptance, approval or accession;

c) any date of entry into force of this Convention in accordance with Article 9 thereof;

d) any declaration received in pursuance of the provisions of paragraph 2 of Article 2 or of paragraph 5 of Article 3;

e) any notification received in pursuance of the provisions of Article 11 and the date on which denunciation takes effect.

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

Done at Madrid, the 21st day of May 1980 in English and in 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 Convention.

ADDITIONAL PROTOCOL TO THE EUROPEAN OUTLINE CONVENTION ON TRANSFRONTIER CO-OPERATION BETWEEN TERRITORIAL COMMUNITIES OR AUTHORITIES

STRASBOURG, 9.XI.1995

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.

PROTOCOL NO. 2 TO THE EUROPEAN OUTLINE CONVENTION ON TRANSFRONTIER CO-OPERATION BETWEEN TERRITORIAL COMMUNITIES OR AUTHORITIES CONCERNING INTERTERRITORIAL CO-OPERATION

Preamble

The member States of the Council of Europe signatory to this Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities,

Considering the conclusion, on 9 November 1995, of the Additional Protocol to the Outline Convention, concerning the legal effects of acts performed within the framework of transfrontier co-operation and of the legal status of any co-operation bodies to be set up by transfrontier cooperation agreements;

Considering that, in order to perform their functions effectively, territorial communities or authorities are increasingly co-operating not only with neighbouring authorities of other States (transfrontier co-operation), but also with foreign non-neighbouring authorities having common interests (interterritorial co-operation), and are doing so not only within the framework of transfrontier co-operation bodies and associations of territorial communities or authorities but also at bilateral level;

Bearing in mind the Vienna Declaration of 1993 of the heads of State and government of the member States, which recognised the role of the Council of Europe in the creation of a tolerant and prosperous Europe through transfrontier co-operation of territorial communities or authorities;

Noting that in the field of interterritorial co-operation there is no instrument comparable to the Outline Convention;

Wishing to give interterritorial co-operation an international legal framework,

Have agreed the following provisions:

Article 1

For the purpose of this Protocol, "interterritorial co-operation" shall mean any concerted action designed to establish relations between territorial communities or authorities of two or more Contracting Parties, other than relations of transfrontier co-operation of neighbouring authorities, including the conclusion of co-operation agreements with territorial communities or authorities of other States.

Article 2

(a) Each Contracting Party shall recognise and respect the right of territorial communities or authorities within its jurisdiction, and referred to in Articles 1 and 2 of the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (hereinafter referred to as "the Outline Convention"), to engage in discussions and to draw up, within common fields of responsibility, interterritorial co-operation agreements, in accordance with the procedures laid down in their statutes, in conformity with national law and insofar as such agreements are in keeping with the Contracting Party's international commitments.

(b) An interterritorial co-operation agreement shall entail only the responsibilities of the territorial communities or authorities which have concluded it.

Article 3

The Contracting Parties to this Protocol shall apply, *mutatis mutandis*, the Outline Convention to interterritorial co-operation.

Article 4

The Contracting Parties to this Protocol, which are also Contracting Parties to the Additional Protocol to the Outline Convention (hereinafter referred to as "the Additional Protocol"), shall apply, *mutatis mutandis*, the aforesaid Protocol to interterritorial co-operation.

Article 5

For the purpose of the present Protocol, *mutatis mutandis* means that in the Outline Convention and the Additional Protocol the term "transfrontier co-operation" shall be read as "interterritorial co-operation" and that the articles

of the Outline Convention and of the Additional Protocol shall apply unless otherwise provided by the present Protocol.

Article 6

(a) Each Contracting Party to the Outline Convention and to the Additional Protocol shall declare, when signing this Protocol, or when depositing its instrument of ratification, acceptance or approval, whether it will apply, pursuant to Article 4 of this Protocol, the provisions of Articles 4 and 5 of the Additional Protocol or one of those articles only.

(b) Such a declaration can be modified at any subsequent time by a declaration addressed to the Secretary General of the Council of Europe.

Article 7

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

Article 8

(a) 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:

1. signature without reservation as to ratification, acceptance or approval; or

2. signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.

(b) A member State of the Council of Europe may not sign this Protocol without reservation as to ratification, acceptance or approval, nor 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.

(c) The instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article 9

(a) 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 this Protocol in accordance with Article 8.

(b) In respect of any member State which subsequently expresses its consent to be bound by this Protocol, it shall come into force three months after the date of its signature or the deposit of the instrument of its ratification, acceptance or approval.

Article 10

(a) After the entry into force of this Protocol, any State which has acceded to the Outline Convention may also accede to this Protocol.

(b) 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 11

(a) Any Contracting Party may, at any time, denounce this Protocol by means of notification addressed to the Secretary General of the Council of Europe.

(b) Such denunciation shall become effective six months after the date of receipt of the notification by the Secretary General of the Council of Europe.

Article 12

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 a Contracting Party in conformity with Article 6;

(b) any signature of this Protocol;

(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 Article 9 and Article 10;

(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 5th day of May 1998, in English and in 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.