



Executive Summary **Loccum Principles**

Loccum, November 2019

EZKS

Europäisches Zentrum für Kurdische Studien
European Center for Kurdish Studies





Disclaimer: The principles in this paper reflect the discussions of the workshop. This does, however, not mean that all participants agree on all points of this document.

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Loccum Principles

An executive summary of the discussions in Loccum in November 2019

In November 2019, the European Center for Kurdish Studies held a dialogue workshop at the Protestant Academy in Loccum, near Hannover. The substantive focus of this meeting was the issue of how to draw regional borders and divide powers between the central, regional and municipal governments. Since the Syrian Constitutional Committee's small body met in Geneva at the same time, some of the members of the committee were not able to travel to Loccum. Therefore, we also invited participants who were not involved in the constitutional committee but had already participated in early workshops held by the European Center for Kurdish Studies. In addition, several former Syrian judges took part in the meeting and contributed their professional expertise to the discussion. The Loccum-Paper records the most important aspects of the discussion as well as open points.

General remarks and statements:

- The *Syrian-led* and *Syrian-owned* process presents a challenge, in particular due to interference and intervention efforts led by other states.
- The independence of constitutional committee members is not guaranteed on account of outside influence and pressure exercised on some of the members.
- It must not be forgotten that international law is the binding framework for drawing up a constitution.
- Is the goal to draw up a provisional constitution or a permanent one?
- What role does the constitution of 2012 play in this process of drawing up a constitution?
- In drawing up a constitution, its ultimate implementation must also be considered (planning of the transition and implementation of the new social contract).
- The constitution must provide for an equalisation between the rights of the majority and those of minorities.
- How can the process be upheld/improved? How can its legitimacy be increased?

Questions and discussion points regarding the powers and responsibilities (Chapter 3):

- The idea of assigning important powers and responsibilities to the regions has been approved in principle; so, too, has the idea of safeguarding the rights of the regions and guaranteeing their collaboration.
- The distribution of powers and responsibilities raises many questions when viewed in detail, for instance with regard to border protection, the legal system and the judiciary as well as the health and education system.
- The question of natural resources may require a more precise provision: Is a fair and reasonable equalisation guaranteed between the interests of the region in which the resources are located and the interests of other regions and the central state? Is an allocation key necessary?
- Are additional powers required at the central government level for addressing water strategy, environmental protection and the climate as a whole? For (international) banking? Provisions for reconstruction?
- A proposal was made to assign the residuary powers to the central government and not to the regions.

Questions and discussion points regarding the federal authorities (Chapter 4):



- The provision on states of emergency may need to be more exhaustive to effectively prevent the misuse of emergency legislation. Conversely, a proposal has been made to omit the provision on urgent legislation (70).
- The powers and responsibilities of the military should be more clearly limited. It should only be deployed with parliament's consent.
- Should there really only be 10 ministries?
- The provision contained in 80.2 (on the equal composition of the government) is controversial. The government should be inclusive and representative, but it has been proposed that the provision either be changed or omitted without replacement. It has also been asserted that the proposed provision violates UN resolution 2254, which envisages a non-denominational government.
- The number of members in the first chamber of parliament raises some issues: Why 360? Can the number of members be kept open?
- It is noted that envisaging 5 representatives per region is problematic unless the total number of regions in future Syria is known.
- The provision from Article 64.2 is controversial. Should the provision be omitted? Should it be supplemented with groups that have not been mentioned (e.g. Alawites, Jews)? Should the president be empowered to appoint or propose additional members if certain groups are not represented?
- What is the significance of 68.2? What does it mean that five members of parliament are required to propose a decision (69.1)?
- The proposal has been made that the approval of only the first chamber (not both chambers) be required for individual provisions. For instance, should elections (71) only be made by the first chamber? Should only the first chamber supervise them (71)?
- Should bills really be published in the official journal? Why should laws only come into force 30 days after publication?
- Should a presidential candidate be obliged to meet certain requirements to be eligible for election? What is the significance of citizenship (as well as foreign nationalities) and place of residence?
- The provision in 79.2 raises the question: Should the prime minister temporarily assume the office of the president should it become vacant?
- A semi-presidential system with strengthened powers and responsibilities of the president has been proposed (e.g. with regard to the provision on states of emergency, but also in other areas).
- Article 76 must be expanded to include the possibility of a second round of voting (two-round system).
- A proposal has been made to change the two-thirds majority in 71.1 to a simple majority to facilitate the formation of a government.
- Parliament should not supervise the government, but rather regulate it (difference between the two?).
- The term "superintendence" (e.g. under which the judiciary stands) raises issues.
- It is noted that, in Article 74, deadlines for approving the budget must be set.
- Should the quota of women be raised, lowered, repealed or limited (e.g. to 20 years)?

Proposals for the subject matter of future workshops:

Topical focus?

- Separation of powers (legislative, judiciary, executive), semi-presidential system, experiences in neighbouring countries
- Discussion of Syrian identity



- Human rights, protection of minorities and minority rights, other rights which are crucial for forming an identity
- Decentralisation; involves multiple topics, e.g. the formation of new region
- Independent commissions and discussion of other institutions
- Distribution of resources

What could be the goals of future workshops?

- Brainstorming new ideas, creating a joint vision and sharing these with the Syrian public
- Preparing papers
- Improving negotiating skills and rhetorical aptitude
- Forming a consensus and appropriate coalitions
- Sharing general knowledge as well as knowledge about constitutions based on international experience
- Building trust amongst the representatives of the various segments

Who should take part?

- Participants from previous workshops should be invited to take part once again, as well as representatives of the opposition and civil society.
- The desire for broad representation of various groups at workshops has been expressed, including representation from the Arabic minorities in north-eastern Syria.
- In particular the members of the constitutional committee appointed by the UN should receive increased support.

