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## Comparative analysis on the implementation of the European Charter of Local Self-Government in 47 member States

*on the basis of the recommendations on local and regional democracy in member States adopted by the Congress*

Monitoring Committee

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### Summary

This report aims at providing an overview of the implementation of the Charter, based on monitoring reports and recommendations in all member States (with a few exceptions: Andorra, Monaco and San Marino have not been monitored since they ratified the Charter after 2011). Nearly all reports that have been used were drafted after 2010, when the common structure of the reports was developed. The influence of the Charter is obvious in many cases, especially in the so-called young democracies where this is visible, but also in some older member States where constitutional amendments, new institutions and several reforms reflect the attempts to reach higher standards of local democracy, in full accordance with the spirit of the Charter. Decentralisation is an ongoing process in most countries, sometimes also experiencing setbacks and frequently facing a danger of overlapping and confusion, due to imprecise legislation, complex structures and power struggles with State authorities and different pressure groups. One of the core issues identified in many countries is the persistent failure of State authorities to effectively include local governments in decision making that directly affects them. Furthermore, intensified problems related to local government finance is no surprise, since reports and recommendations are drawn up in a particularly difficult economic context marked by the international economic crisis in which local governments have been among the primary targets for budget cutbacks and controls.

1 L: Chamber of Local Authorities / R: Chamber of Regions  
EPP/CCE: European People's Party Group in the Congress  
SOC: Socialist Group  
ILDG: Independent Liberal and Democratic Group  
ECR: European Conservatives and Reformists Group  
NR: Members not belonging to a political group of the Congress

## RESOLUTION 413 (2017)<sup>2</sup>

1. Referring to:

- a. the European Charter of Local Self-Government (ETS No. 122, 1985);
- b. the monitoring reports and recommendations adopted by the Congress with respect to the situation of local and regional democracy in member States of the Council of Europe;
- c. the recurring issues based on assessments resulting from Congress monitoring and election observation missions ([CG32\(2017\)19](#));
- d. the comparative analysis on the implementation of the European Charter of Local Self-Government in 47 member States contained in the explanatory memorandum to this resolution,

2. The Congress of Local and Regional Authorities of the Council of Europe requests its Monitoring Committee:

- a. to focus, in the framework of its monitoring visits, in particular on the provisions of the Charter which give rise to recurring problems in member States of the Council of Europe as well as on the non-ratified provisions of the Charter;
- b. to pursue a political dialogue in the framework of post-monitoring activities with all the member States concerned on the basis of the findings of the appended explanatory memorandum.

3. The Congress requests that its Monitoring Committee provide – every three years – an analysis of the appended report on the basis of the adopted monitoring recommendations.

4. It also asks the other Congress bodies to take into account the findings drawn from the comparative analysis during their respective activities.

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<sup>2</sup> Debated and adopted by the Congress on 28 March 2017, 1st sitting (see document [CG32\(2017\)22](#), explanatory memorandum), co-rapporteurs: Xavier CADORET, France (L, SOC) and Karim VAN OVERMEIRE, Belgium (R, NR).

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## 1. INTRODUCTION<sup>3</sup>

1. The rapporteurs and the Monitoring Committee wish to pay tribute to former rapporteur Guilherme Pinto (Portugal, L, SOC), who initiated this work of great relevance to the Congress and on whose study the report is based.

2. This report is based on monitoring reports and recommendations concerning the situation of local democracy in 44 out of the 47 member States of the Council of Europe that have all signed and ratified the Charter. Out of the three countries that have not been taken into consideration, Andorra, Monaco and San Marino have never been the subject of a comprehensive monitoring report since these States ratified the Charter after 2011. Among the 44 states included, some have been founding members of the Council of Europe, 18 have signed the Charter already in the eighties, while most countries followed in the nineties and a few joined in the beginning of the 21<sup>st</sup> century. Signatory states have very different state and administrative traditions, followed different historical paths and reached different levels of human and economic development, however they all share the same basic ideals and they all adopted the idea that local government is a constitutive element of democracy and that decentralisation brings freedom and prosperity.

3. Since the examined reports and the recommendations were written by different rapporteurs in different times and in different countries, it is obvious that approaches and prioritisations can deviate, although there is a visible trend to homogenisation and pertinent recommendations have finally been adopted by the Congress that promotes a coherent approach.

4. Findings about compliance, partial compliance and violations are obviously not up-to-date since they reflect the situation found by the rapporteurs when they drafted their monitoring reports and, the latest, when recommendations were adopted.

5. The present report is following the structure of the Charter, article by article, not only for reasons of systematic clarity (or simply because the subdivision is easier to establish on the basis of the articles rather than that of 44 countries), but also because this report focuses on the Charter and its implementation and not on the specific situation of local and regional democracy in the member states. However, characteristic parts and quotes from monitoring reports and adopted recommendations are used in every article and nearly in every paragraph analysis in order to illustrate the kinds of problems that the rapporteurs identified and that the recommendations addressed. For some articles, also good practices of single countries are briefly presented, while for each article all declarations issued by states are mentioned. According to the Charter, a state Party is bound by the whole convention unless it has issued a declaration to limit the scope of its undertakings in the extent provided by Article 12.

6. This implementation report is followed by appendixes, including comparative tables cross-tabulating countries and articles, showing compliance, partial compliance, violation and reservations for every single country and every paragraph.

## 2. ARTICLE 2 – PRINCIPLE OF LOCAL SELF-GOVERNMENT

### 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.

7. In most member States the principle of local self-government is enshrined in the constitution. Important constitutional changes strengthening local government were introduced in several countries like *Armenia* (2005), *France* (2003), *Italy* (2001), *Sweden* (2011) and elsewhere. In 27 countries, monitoring reports found compliance with Article 2, while partial compliance was reported in 6 cases and non-compliance in four cases.

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<sup>3</sup> The rapporteurs were assisted by Pr. Nicolaos-Komninos Chlepas, member of the Group of Independent Experts on the European Charter of Local Self-Government, whom they thank for his valuable co-operation.

8. Concerning *Azerbaijan*<sup>4</sup>, for instance, the Monitoring Report of 2012 highlighted the insufficient and ambiguous definition of local-self-government<sup>5</sup> in the law on the status of municipalities. It was recommended to review the law on the status of municipalities with the aim of recognising municipalities as decentralised institutions exercising part of the overall functions of the State;

- In *Cyprus*,<sup>6</sup> the Congress noted the absence of constitutional safeguards for the principle of local self-government and the status of local authorities;

- The Congress asked *Georgia*<sup>7</sup> to amend the constitution so that the principle of subsidiarity would be specifically recognised in the field of local government, by being mentioned as one of its guiding principles, further on it was recommended to streamline the legislation, giving the Organic Law a prominent role regarding all issues touching upon local government;

- In *Hungary*,<sup>8</sup> the principle of local self-government is neither explicitly enshrined in the Cardinal (Implementing) Act on Local Government nor in the Fundamental Law (Constitution); therefore the Congress recommended to invite the Hungarian authorities to revise the Cardinal Act so that the principle of local self-government is explicitly guaranteed in the legislation and in practice, in accordance with Article 2 of the Charter;

- In *Ireland*,<sup>9</sup> it was considered that the constitutional protection of local self-government is rather weak and that the principle of subsidiarity is not properly reflected and guaranteed in the legislation;

- In *the Netherlands*,<sup>10</sup> the Congress observed that the principle of local self-government is not explicitly or directly recognised neither in the applicable domestic legislation (Municipalities Act) nor in the Constitution as required in Article 2 of the Charter;

- With regard to *Norway*,<sup>11</sup> last Congress Recommendation 374 (2015) asked for the Norwegian authorities to further reinforce local self-government (and local democracy) by incorporating those principles into specific legislation and, if practicable, into the Constitution. Further to this Recommendation – and this is a great achievement of the Congress – the Parliament of Norway approved on 31<sup>st</sup> March 2016 a constitutional amendment to include recognition of local self-government into Art. 49 of the Constitution;

- In the *United Kingdom*,<sup>12</sup> the Congress noted that Constitutional or legislative recognition and entrenchment of (the right to) local self-government does not exist (including in Scotland), and the introduction of a general power for local authorities does not go far enough in satisfying the spirit of the Charter.

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4 Local and regional democracy in Azerbaijan, Recommendation 326 (2012) Debated and adopted by the Congress on 17 October 2012, 2nd Sitting (see Document CG(23)12, explanatory memorandum), rapporteurs: Jakob (Jos) Wienen, Netherlands (L, EPP/CD) and Gudrun Mosler-Törnström, Austria (R, SOC).

5 Article 1 of the Law on the status of municipalities in Azerbaijan mentions that: "Local self-government in the Republic of Azerbaijan is a system of organizing citizens' activity" and Article 2.2 of this law defines the municipalities as "bodies created by the municipality and not included in the system of state in order to organize municipal service and with a view to resolve issues of local importance".

6 Local democracy in Cyprus, Recommendation 389(2016) Debated and approved by the Chamber of Local Authorities on 20 October 2016 and adopted by the Congress on 21 October 2016, 3rd sitting (see document CPL31(2016)05final, explanatory memorandum), rapporteurs: Bernd Vöhringer, Germany (L, EPP/CCE) and Randi Mondorf, Denmark (R, ILDG).

7 Local and regional democracy in Georgia, Recommendation 334 (2013) Debated and adopted by the Congress on 19 March 2013, 1st Sitting (see Document CG(24)10 explanatory memorandum), rapporteurs: Nigel Mermagen, UK, (L, GILD) and Helena Pihlajasaari, Finland (R, SOC).

8 Local and regional democracy in Hungary. Recommendation 341 (2013) Debated and adopted by the Congress on 29 October 2013, 1st Sitting (see Document CG(25)7FINAL explanatory memorandum), rapporteurs: Artur Torres Pereira, Portugal (L, EPP/CCE) and Devrim Çukur, Turkey (R, SOC).

9 Local democracy in Ireland, Recommendation 342 (2013). Debated and approved by the Chamber of local authorities on 30 October 2013, and adopted by the Congress on 31 October 2013, 3rd sitting (see Document CPL(25)5FINAL, explanatory memorandum), rapporteurs: Andris Jaunsleinis, Latvia (L, ILDG) and Merita Jegeni Yildiz, Turkey (R, EPP/CCE).

10 Recommendation 352 (2014) Local and regional democracy in the Netherlands. Debated and adopted by the Congress on 26 March 2014, 2nd sitting (see Document CG(26)7FINAL explanatory memorandum), rapporteurs: Artur Torres Pereira, Portugal (L, EPP/CCE) and Jean-Pierre Liouville (R, SOC).

11 Recommendation 374 (2015), Local and regional democracy in Norway. Debated and adopted by the Congress on 26 March 2015, 3rd Sitting (see Document CG/2015(28)5FINAL explanatory memorandum) co-rapporteurs: Xavier Cadoret, France (L, SOC) and Guilherme Pinto, Portugal (R, SOC).

12 Recommendation 353 (2014), Local and regional democracy in the United Kingdom. Debated and adopted by the Congress on 26 March 2014, 2nd Sitting (see Document [CG\(26\)10FINAL](#) explanatory memorandum), rapporteurs: Angelika Kordfelder, Germany (L, SOC) and Alexander Uss, Russian Federation (R, EPP/CCE).

9. The fact that constitutional recognition or/and legislative entrenchment were found to be weak or even not to exist in some countries does not necessarily mean that local government is a fragile institution. But it certainly does not correspond to the letter and the spirit of the Charter that demands clear and also formal safeguards for local autonomy.

10. In order to address issues raised by the lack of weakness of constitutional recognition or/and legislative entrenchment, the Congress has recommended respective constitutional amendments and systematic modernisation of domestic legislation in accordance with the spirit of the Charter.

### 3. ARTICLE 3 – CONCEPT OF LOCAL SELF-GOVERNMENT

#### 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.

11. The question about the exact meaning of the right and the ability to “regulate and manage a substantial share of public affairs under their own responsibility” arises in all countries party to the Charter. It should be clear that Article 3 paragraph 1, when using the term “ability” refers to each municipality and not simply to the overall situation or only to the majority of municipalities. According to this interpretation, in many countries an important part of municipalities are facing lack of resources and instruments or are simply too small and weak to cope with their responsibilities. Therefore, the Congress often recommends amalgamations or/and strengthening inter-municipal cooperation in order to increase local capacity to act and deliver services. The aim of the Charter is to reach a high level of decentralisation in all member States and for the benefit of all local governments.

12. The ability to “regulate and manage” means that local authorities should be given the legal and operational instruments necessary not only to day-to-day work but also to set priorities and take normative decisions. That should be done “on their own responsibility” which denotes that local authorities cannot be restricted to state agents but they should take decisions serving the interests of local population. The notion of “*substantial share of public affaires*” is, of course, a vague legal term, but Article 4 of the Charter is introducing a set of principles and rules that operationalize this term (see below), notwithstanding the fact that decentralization strongly deviates among member States following national contexts and traditions.

13. Most countries (fourteen cases) fully comply with the requirements of Article 3 paragraph 1, but there is also an important share which is partially complying (twelve cases), including also countries with strong municipalities (e.g. *Denmark*), since identified shortcomings sometimes relate to the second tier of self-government (regions, counties etc.). There were also seven cases where violations of the Charter were found and pertinent recommendations formulated.

14. In *Armenia*,<sup>13</sup> for instance, the Congress highlighted that local authorities take part in service delivery only to a limited extent and they do not regulate and manage “a substantial share of public affairs under their own responsibility”.

- In *Azerbaijan*, the definition of local-self-government in the law on the status of municipalities has been considered insufficient and ambiguous. Furthermore local self-governance system, according to the Constitution, is carried out by both local executive committees, which are state bodies, and municipalities which only have a very limited role. In practice municipalities are subordinated to local executive committees which are part of the state administration.

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<sup>13</sup> Recommendation 351 (2014), Local democracy in Armenia. Debated and adopted by the Congress on 27 March 2014, 3<sup>rd</sup> Sitting, (see Document [CPL\(26\)2FINAL](#), explanatory memorandum), rapporteur: Nigel Mermagen, United Kingdom (L, ILDG).

- In *Cyprus*, the Congress noted the fact that only minimal responsibilities are conferred by the relevant law to local authorities.
- In *Denmark*, the Congress concluded that competences of the regions are restricted and it recommended<sup>14</sup> the Danish authorities to revise the responsibilities of the regions. However, the Danish Government has further decided by declaration contained in a letter dated 29 May 2006 with effect as from 12 October 2007 to consider that the provisions of the Charter shall apply only to Danish municipalities.
- In *Hungary*, the principle of local self-government is not complied with due to the pooling at the supra-communal level (district) of competences of municipalities with less than 2000 inhabitants ; and this is implemented through an administrative structure that is composed of civil servants from the State; at the same time, the position of the counties is weak in both their institutional framework and as regards their functions; therefore the Congress recommended the Hungarian authorities to strengthen the position of counties.
- In *Italy*, the violation of the right of local authorities to manage a substantial share of public affairs under their own responsibility was reported<sup>15</sup> and in particular the constitutional provisions on local autonomy were not adequately implemented, especially in the aftermath of the economic crisis; therefore the Congress called on the Italian authorities to guarantee the maintenance of a substantial share of public functions for local and regional authorities, which should be full and exclusive.
- *Latvia*<sup>16</sup> should clarify the legal position of the five planning regions and give them a proper autonomous status.
- In *Malta*,<sup>17</sup> according to Congress Recommendation 305 (2011), the Local councils are still not responsible for a “substantial share of public affairs” as required by Article 3, paragraph 1. Therefore it was suggested to increase the share of public affairs and funds that the local authorities in Malta have the right and ability to regulate and manage.
- In *Ukraine*,<sup>18</sup> the Congress regretted the fact that legislation limits the local authorities’ ability to take decisions and manage their own affairs to “matters of local importance” and the fact that local authorities cannot fully exercise their competences on all matters that concern them.

15. According to Article 3 paragraph 2 the rights of self-government must be exercised by democratically constituted authorities. This right normally entails a representative assembly *with or without* executive bodies subordinated thereto. The primacy of this directly and universally elected council or assembly means that this body takes the major decisions (in some countries there is an explicit presumption of competence), but it does not necessarily entail the right to recall or vote out the executive. This is particularly the case in some countries where the executive (mostly: the mayor) is also directly elected, like in Poland. An additional problem emerges in some countries where the executive is appointed or/and mainly accountable to state authorities as of is the case in the Netherlands.

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14 Recommendation 350 (2013). Local and regional democracy in Denmark. Debated and adopted by the Congress on 31 October 2013, 3rd Sitting (see Document [CG\(25\)12FINAL](#)), rapporteurs: Julia Costa, Portugal (L, PPE/CCE) and Jean-Pierre Liouville, France (R, SOC).

15 Local and regional democracy in Italy. Recommendation 337 (2013). Debated and adopted by the Congress on 19 March 2013, 1st Sitting (see document [CG\(24\)8](#), explanatory memorandum), rapporteurs: Marina Bepalova, Russian Federation (L, EPP/CCE) and Knud Andersen, Denmark (R, ILDG).

16 Recommendation 317 (2011) Local and regional democracy in Latvia. Debated and adopted by the Congress on 20 October 2011, 3rd Sitting (see Document [CG\(21\)16](#), explanatory memorandum), rapporteurs: Jean-Claude Frécon, France (L, SOC) and Philippe Leuba, Switzerland (R, NR).

17 Recommendation 305 (2011)<sup>1</sup> Local democracy in Malta. Debated and approved by the Chamber of local authorities on 23 March 2011, and adopted by the Congress on 24 March 2011, 3rd Sitting (see Document [CPL\(20\)3](#), explanatory memorandum), rapporteur: Emil Calota, Romania (L, SOC).

18 Recommendation 348 (2013) Local and regional democracy in Ukraine. Debated and adopted by the Congress on 31 October 2013, 3rd Sitting (see Document [CG\(25\)8FINAL](#), explanatory memorandum) rapporteurs: Marc Cools, Belgium (L, ILDG) and Pascal Mangin, France (R, EPP/CCE).

16. There are some countries that declared not to be bound by Article 3 paragraph 2: These were *Belgium*,<sup>19</sup> *Liechtenstein* and *Spain*. *France* issued an interpretative declaration in respect of that paragraph. Since there is no particular reason for these reservations nowadays, the Congress called on several of these members states to withdraw their declarations.

17. Violations of Article 3.2. were found in five countries, while no less than nine countries partially complied, in spite of the fundamental character of democratic principles enshrined in this provision. Violations were found mainly in younger democracies (Albania, Armenia, Azerbaijan, Hungary and the Russian Federation), but there were also cases of partial compliance in “older” ones.

18. In *Albania*,<sup>20</sup> for instance, and prior the adoption of a new Law “On local self Government” by the Albanian Parliament on 17 September 2015, the co-existence of regional councils and the prefects as parallel structures in each region (*qark*) made it unclear what competences were under the exclusive mandate of the council, also giving rise to the risk of duplication and constituting the main obstacle for regional autonomy. Therefore, a recommendation was adopted to clarify the respective areas of competence of the prefect and the regional (*qark*) council, and consider setting up a unified administrative structure accountable to the regional council, as well as introducing direct and universal elections for the regional council;

- In *Italy*, the report found that the principle of direct elections of the officials at the provincial level was called into question with the introduction of indirect elections for provinces within the framework of the ongoing reform; therefore, it was recommended to recommit to the democratic value of direct elections in any future structural reform proposals, notably as concerns the provincial level;

- *Bulgaria*<sup>21</sup> was asked to maintain direct elections for councils at all levels of local administration without any distinction based on population size;

- *Malta* should reconsider some of the provisions regarding the status of Executive Secretaries in order to ensure that ministerial discretion does not hamper the freedom of local councils to select their main executive officer;

- In Congress Recommendation 293 (2010), *Montenegro*<sup>22</sup> was asked to initiate a reform of the voting system for the election of mayors and municipal councillors. According to this Recommendation, substantial changes in the local election law could provide either for the replacement of list voting by constituency/ward representation (perhaps based on the single transferable vote system) or, at the very least, by substitution of an open list system. However, in its last Recommendation on this country<sup>23</sup>, the Congress noted with satisfaction the adoption and implementation of new laws on local self-government and local self-government finance;

- *The Russian Federation* was asked in 2010<sup>24</sup> to reintroduce direct elections for regional governors in order to restore the level of regional democracy that the Russian Federation enjoyed prior to 2004; furthermore to facilitate the registration of new political parties at local and regional level, enabling groups of local or regional candidates to stand for election without the need for their parties to demonstrate an impractically large number of members. Russian authorities were also asked to take measures to prevent the use of closed lists in local and regional elections; furthermore to take measures to ensure that independent candidates may stand in all local and regional elections and finally, to allow national NGOs freely to observe local and regional elections, including the vote count;

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19 Recommendation 366 (2014)<sup>1</sup> Local and regional democracy in Belgium. Debated and adopted by the Congress on 15 October 2014, 2nd Sitting (see Document [CG\(27\)7FINAL](#) explanatory memorandum) rapporteurs: Henrik Hammar, Sweden (L, EPP/CCE) and Urs Wüthrich Pelloli, Switzerland (R, SOC).

20 Local and regional democracy in Albania, Recommendation 349 (2013) Debated and adopted by the Congress on 31 October 2013, 3rd Sitting (see Document [CG\(25\)11FINAL](#) explanatory memorandum), rapporteurs: Zdenek Broz, Czech Republic (L, ECR) and Åke Svensson, Sweden (R, SOC).

21 Recommendation 310 (2011) Local and regional democracy in Bulgaria. Debated and adopted by the Congress on 18 October 2011, 1st Sitting (see Document [CG\(21\)14](#), explanatory memorandum), rapporteurs: Artur Torres Pereira, Portugal (L, EPP/CD) and Johan Sauwens, Belgium (R, EPP/CD).

22 Recommendation 293 (2010) Local democracy in Montenegro. Debated and adopted by the Congress on 28 October 2010, 3rd Sitting (see Document [CPL\(19\)4](#), explanatory memorandum), rapporteur: Nigel Mermagen, United Kingdom (L, ILDG).

23 Recommendation 379 (2015) Local democracy in Montenegro. Debated and adopted by the Congress on 22 October 2015, 3rd sitting (see Document [CPL/2015\(29\)7FINAL](#), explanatory memorandum), rapporteurs: Gaye Doganoglu, Turkey (L, EPP/CCE) and Henrik Brade Johansen, Denmark (L, ILDG).

24 Recommendation 297 (2010) Local and regional democracy in the Russian Federation. Debated and adopted by the Congress on 28 October 2010, 3rd Sitting (see Document [CG\(19\)11](#), explanatory memorandum), rapporteurs: Knud Andersen, Denmark (R, ILDG) and Christopher Newbury, United Kingdom (L, EPP/CD).

- An interesting case is *Switzerland*,<sup>25</sup> where recourse to referendum is often practiced. In 2010 the Congress expressed its deep concern about possible abuses of the application, without additional safeguards, of Article 139 of the Federal Constitution on popular initiatives, which may contravene the obligations derived from international law;

- Finally, in *Turkey*, the Governor, who is appointed by the central government, remains the chairman of the Special Provincial Administrations' Executive Committee and this puts the autonomy of provincial self-government into question. Therefore, the Congress Recommendation urged the Turkish authorities to take the necessary steps to reduce the involvement of Governors in the work of Special Provincial Administrations and the influence of Governors over the Special Provincial Administrations operations. According to the Recommendation, this should include a removal or at least reduction of their influence in the Union of Special Provincial Administrations.

19. As shown in some monitoring reports, in several countries, many local authorities are facing important shortages of resources and instruments or are simply too small and weak to cope with their responsibilities. Free election of local assembly members and responsibility of executive organs to these assemblies still are unsatisfied demands in some countries, particularly concerning higher tiers of local governments where tradition of stronger influence seems to persist.

20. Concerning the aforementioned issues identified in monitoring reports, the Congress often recommends amalgamations or/and strengthening inter-municipal cooperation in order to increase local capacity to act and deliver services. Concerning higher levels of local and regional governance, it is recommended to converge the legal status of higher tiers to the one already existing for the local tier.

#### 4. ARTICLE 4 – SCOPE OF LOCAL SELF-GOVERNMENT

##### 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.

21. Article 4 refers to the scope of local government. It does not enumerate the powers and responsibilities local authorities should have but it lays down the general principles on which the responsibilities of local authorities and the nature of their powers should be based. Based on this provision, the Congress encouraged and supported decentralization processes in many European countries. According to the Charter, local authorities shall have full discretion to exercise their initiative with regard to any matter within their competences. Such competences shall normally be full and exclusive. In principle, they should not be undermined or limited by another, central or regional, authority.

<sup>25</sup> Recommendation 285 (2010) Regional democracy in Switzerland. Debated and approved by the Chamber of Regions on 18 March 2010 and adopted by the Congress on 19 March 2010, 3rd Sitting (see Document [CPR\(18\)2](#), explanatory memorandum), rapporteur: M. Haak-Griffioen (Netherlands, R, EPP/CD).

22. Article 4, paragraph 1, requires that the basic responsibilities of local governments shall be sufficiently rooted in either the Constitution or legislation to ensure clarity and legal certainty. Therefore municipal tasks should not be assigned to them on an *ad hoc* basis. However, the term “statute” is broadly interpreted so as to acknowledge that in certain countries, some delegation by the parliament of specific competences to local governments may be justified, particularly in respect of the implementation of EU directives.

23. Most countries comply with Art. 4 para 1. but there are ten cases of partial compliance, while in some countries violations were found. The main problem identified lays on the division of competences:

- With regard to *Azerbaijan*, the Congress noted the imprecise division of competences and responsibilities between municipalities and local executive committees and called upon the Azerbaijan authorities to reconsider substantially and clarify the division of tasks and powers between parallel structures of local public administration, transferring the most important local public competences to democratically and politically accountable municipalities;

- With respect to *Denmark*, the Congress expressed its concerns about the lack of clarity as regards certain responsibilities, which were not clearly allotted to local authorities – a situation which may lead to duplication. The Congress recommended the Danish authorities to clearly define, in the light of Article 4 para. 1 of the Charter, the areas of responsibility of local authorities, including the competences set out in municipal decrees which are vague and which often overlap;

- *The Netherlands* were also asked to clarify the areas of competence of municipal and provincial authorities, including those set out in the different sectors of government activity, in line with the spirit of Article 4 para.1. of the Charter.

24. Article 4, paragraph 2, of the Charter refers to the discretion of local authorities to take initiative in any matter not excluded from their competence. Many countries have adopted the so-called clause of general competence for local authorities which can also be combined to the subsidiarity principle enshrined in paragraph 3 of Article 4.

25. *Austria* declared not to be bound by Article 4 para.2. No less than twelve countries were explicitly found to comply with this norm, while ten partially complied and seven violations of Article 4 para. 2 have been recorded.

- In *Armenia*, the weak capacity of community councils in the exercise of their initiatives with regard to all matters relating to their competences was pointed out; therefore the Congress asked the Armenian authorities to increase the legal and practical capacities of the community councils with regard to all matters related to their competences, in order to increase the efficient administrative capacity of local communities and strengthen their role and importance in relation to the chief executives;

- In *Cyprus*, the legislative basis for the powers and responsibilities of local authorities and for the conditions under which they are exercised, is weak and imprecise. The Congress asked therefore the Cypriot authorities to provide clear recognition of the legislative and, if practicable, the constitutional status of local governments in order to strengthen their substantial role in regulating and administering local public affairs

- *Slovakia*<sup>26</sup> was asked to draw up a legislation which would clearly define the exclusive fields of competence of the regional and the local level respectively to avoid any overlapping of responsibilities, and consider elaborating a legislation allowing local authorities to take initiatives when the corresponding competence has not been expressly attributed to them and when this is not explicitly prohibited by the law;

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26 Recommendation 387 (2016). Local and regional democracy in the Slovak Republic. Debated and adopted by the Congress on 24 March 2016, 3rd sitting (see Document CG30(2016)09-final, explanatory memorandum), rapporteurs: Artur Torres Pereira, Portugal (L, EPP/CCE) and Leen Verbeek, Netherlands (R, SOC).

- Finally, regarding *Sweden*,<sup>27</sup> it was considered that the significantly increased amount of detailed state regulations for local level activities may carry the risk of infringement on local affairs and the need for an improvement in the consultation procedure in order to avoid such infringements.

26. Evaluation of monitoring reports has, therefore, shown that while in some countries the problem lies in unclear division of power and explicitly restrictive rules for local initiatives, in some other countries, especially the ones with highly developed welfare systems, a flood of standards and detailed norms seem to block local initiative.

27. Article 4, paragraph 3 of the Charter introduces the subsidiarity principle whereby public responsibilities should be exercised "in preference" closest to the citizen. The same paragraph introduces the criteria whereby the extent and nature of tasks, as well as the requirements of efficiency and economy should be taken into account in the allocation of responsibilities.

28. A number of countries declared not to be bound by Article 4, paragraph 3: *Austria, Azerbaijan, Monaco, Montenegro, and Serbia*.<sup>28</sup> According to monitoring reports, fourteen countries complied, while nine countries partially complied and in six cases a violation of the Charter was found:

- *Armenia* was asked to review the legislation in order to better implement the principle of subsidiarity;
- *Bosnia and -Herzegovina*<sup>29</sup> was called upon to review the legislation on local self-government within the entities, cantons and municipalities with a view to ensuring clear apportionment of the powers of local authorities in line with the principle of subsidiarity;
- The Congress recommended that *Hungary* revise the legislation concerning local authorities' mandatory tasks and functions so as to extend the range of powers normally assigned to them on the basis of the principles of decentralisation and subsidiarity;
- The Congress called on the authorities of *Iceland*<sup>30</sup> to clarify their fundamental legislation on the basis of the subsidiarity principle, making provision for a clear division of responsibilities between central government and local authorities. This remains an issue of concern since too many grey zones still exist in legislation;
- *Spain*<sup>31</sup> was asked to ensure that the proposed governmental reform to transform the Spanish administration into a system in which "one competence corresponds to one administration" is conducted in accordance with the principle of subsidiarity.

29. The hydra of overlapping responsibilities is the subject of paragraph 4 of Article 4 of the Charter. Powers exercised by local government should normally be full and exclusive. Complementary action by other levels of authority, if required, should take place in accordance with clear legislative provisions.

30. *Romania*<sup>32</sup> has made an interpretative declaration regarding Article 4 paragraphs 4 and 5 of the Charter, stating that it understands the notion of regional authority referred to in these paragraphs as the department authority of the Romanian local public administration while *Switzerland* declared not to be bound by Article 4 para. 4. The monitoring reports show only ten cases of compliance, while partial

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27 Recommendation 357 (2014) Local and regional democracy in Sweden. Debated and adopted by the Congress on 27 March 2014, 3rd sitting (see Document CG(26)12FINAL explanatory memorandum), rapporteurs: Luzette Wagenaar-Kroon, Netherlands (L, EPP/CCE) and Gudrun Mosler-Törnström, Austria (R, SOC).

28 Recommendation 316 (2011) Local and regional democracy in Serbia. Debated and adopted by the Congress on 20 October 2011, 3rd Sitting (see Document CG(21)4, explanatory memorandum), rapporteur: Odd Arild Kvaløy, Norway (R, NR).

29 Recommendation 324 (2012) Local and regional democracy in Bosnia and Herzegovina. Debated and adopted by the Congress on 21 March 2011, 2nd Sitting (see document CG(22)12 explanatory memorandum), rapporteurs: Beat Hirs, Switzerland (L, ILDG), Jean-Marie Belliard, France (R, EPP/CD).

30 Recommendation 283 (2010) Local democracy in Iceland. Debated and adopted by the Congress on 19 March 2010, 3<sup>rd</sup> Sitting (see Document CPL(18)3, explanatory memorandum), rapporteur: Esther Maurer, Switzerland (L, SOC).

31 Recommendation 336 (2013). Local and regional democracy in Spain. Debated and adopted by the Congress on 19 March 2013, 1st Sitting (see Document CG(24)6PROV explanatory memorandum), rapporteurs: Marc Cools, Belgium (L, ILDG) and Leen Verbeek, the Netherlands (R, SOC).

32 Recommendation 300 (2011) Local and regional democracy in Romania. Debated and adopted by the Congress on 22 March 2011, 1st Sitting (see Document CG(20)9 explanatory memorandum), Rapporteur: Jean-Claude Frécon, France (L, SOC).

compliance was reported in thirteen cases and violation of the Charter in no less than twelve cases. Even in very small countries like *Liechtenstein*,<sup>33</sup> the distribution of competence can be unclear:

- In *Albania*, it was found that the organic law regulates, in a confusing manner, the structure, roles and competences of both the local and the regional authorities. Therefore it was recommended to revise legislation to clarify the competences of local and regional authorities, in the light of Article 4 of the Charter;

- With regard to *Armenia*, the Congress noted that local authorities play a very limited role and, in practice, do not have always full and exclusive powers, with local government bodies serving more as agents for the central government than as autonomous actors of local public administration (Article 4 para. 4 of the Charter); therefore the Congress called on Armenian authorities to ensure that local authorities enjoy full and exclusive powers, as autonomous actors of local public administration, and do not have these powers undermined by the central authorities;

- In *Austria*,<sup>34</sup> there are several important areas where responsibilities overlap or where closely related activities are performed and co-financed by different levels of government; *Austria* was asked to elaborate systematic legislation, in accordance with the principle of subsidiarity, clarifying the competences of each level of government (municipalities, federated states and the federation);

- *Azerbaijan* was asked to reconsider substantially and clarify the division of tasks and powers between parallel structures of local public administration, transferring the most important local public competences to democratically and politically accountable municipalities;

- In *Croatia*,<sup>35</sup> it was considered that functions are often imprecisely allocated and there are many overlapping areas in the lists of powers; The Congress asked Croatia authorities to revise the breakdown of responsibilities between the central and subnational levels of government so as to avoid all overlapping of responsibilities, by establishing a clear list of the allocation of powers to the different levels of government, in consultation with those concerned, and so as to keep state intervention proportional to the interests which it is intended to protect;

- In *Cyprus*, the Congress highlighted the lack of genuine local government functions that can be exercised fully and exclusively;

- In *Italy*, the reallocation of responsibilities, which ought rightly to be allocated to municipalities, to independent local consortia was pointed out (Article 4 para. 4). *Italy* was asked to review the scale and effect of shifting responsibilities from municipalities to consortia;

- In *the Netherlands*, according to Recommendation 352 (2014), under the co-governance mechanism of *Medebewind*, local authorities' capacity to act and to take decisions is much more reduced when compared to their "autonomous" competences. Therefore the *Netherlands* were asked to reinforce the "autonomous" and "proper" competences of municipalities and provinces and reduce the tasks performed under the "*Medebewind*" procedure, in the light of the Article 4 para. 4;

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33 Recommendation 196 (2006)1 on local democracy in Liechtenstein. Debated and approved by the Chamber of Local Authorities on 30 May 2006 and adopted by the Standing Committee of the Congress on 1 June 2006 (see Document CPL (13) 3, draft recommendation presented by Christopher Newbury, United Kingdom, (L, EPP/CD), Rapporteur).

34 Recommendation 302 (2011) Local and regional democracy in Austria. Debated and adopted by the Congress on 24 March 2011, 3rd Sitting. (see Document CG(20)8, explanatory memorandum), rapporteurs: Irene Loizidou, Cyprus (R, EPP/CD) and Marc Cools, Belgium (L, ILDG).

35 Recommendation 391(2016) Local and regional democracy in Croatia. Debated and adopted by the Congress on 20 October 2016 (see Document CG31(2016)11final, explanatory memorandum, Rapporteurs, Luzette KROON, the Netherlands (L, EPP/CCE) and Ole Haabeth, Norway (R, SOC)

- the *Russian* authorities were asked in 2010 to continue to further improve the division of competences between federal, regional and local authorities and take measures to reduce the number and scope of shared competences;

- The Congress called on *Spain* to identify, through the Commission for Reform of Public Administration, concrete measures to eliminate the duplication of competences between different levels of government in order to increase the efficiency of public services.

31. Evaluation of monitoring reports has shown that while in some countries overlapping is rather a result of technically insufficient legislation which *de facto* empowers stronger state authorities, in other countries, complex multi-level structures seem to frustrate clear delineation of competence.

32. Article 4 paragraph 5 refers to delegated powers and local discretion that should be allowed in order to adapt to local conditions. Once more, some countries declared not to be bound by this provision: *Austria, the Czech Republic, Montenegro* and, *Serbia*. According to the monitoring reports, nine countries were complying, while eight countries partially complied and three countries were found to violate the Charter.

- *Armenia*, for instance, was asked to clarify the administrative nature of the various tasks and functions and strengthen the position of local authorities by leaving the management of important local matters to the discretion of local authorities.

33. The provision of the Charter in *Article 4, paragraph 6*, about timely and appropriate consultation of local authorities when planning and decision-making processes directly concern them, is one of more provisions on consultation between central and sub-national governments. Article 4 para. 6 introduces the right of local authorities to be consulted in general terms, as a basic principle of local self-government. Two more provisions, Article 5 on local authority boundaries and Article 9 para. 6 about financial matters, refer to special fields of consultation. The Congress has also adopted recommendations on consultation of local authorities. In Recommendation 171 (2005),<sup>36</sup> the Congress emphasises that the right of local authorities to be consulted is a fundamental principle of European legal and democratic practice, the aim of which is to contribute to good governance. In the interests of promoting good governance, consultation of local authorities should be a required part of policy-making, enabling the wishes of local authorities to be known in good time and properly taken into account in the decisions of central authorities. Mechanisms for consultation should be well-established in the democratic and political relationship between the state and the territorial authorities. Consultation processes appear in general to be moving towards a system of negotiation between the government and territorial authorities through national associations of local and regional authorities. These associations have a critical role to play in giving sub-national authorities more negotiation power and in ensuring effective consultations. That is the reason why it is preferable that they be granted formal and specific status in the legislation.

34. Out of the member states, *Georgia* and *Turkey* expressed their will not to be bound by Article 4, paragraph 6. In practice, this norm is one of the most frequently subject of violation: Monitoring reports found seven such cases, while in nineteen cases there was partial compliance and in only ten countries, cases of full compliance.

- In *Albania*, for instance, until the adoption of the new Law "On local self Government" in 2015, there were no clear regulations formalising the participation of the local government associations in the process of consultation with the central government;

- *Armenia* was asked to set up a formal consultation mechanism in domestic law, to ensure that local authorities and national associations of local authorities are duly consulted on matters which concern them directly;

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<sup>36</sup> Debated and approved by the Chamber of Local Authorities on 1 June 2005 and adopted by the Standing Committee of the Congress on 2 June 2005 (see Document CPL (12) 5, draft recommendation presented by Emil Calota, Romania (L, SOC), rapporteur).

- In *Azerbaijan* it was noted that there was a lack of consultation on the part of central authorities with representatives of the three national associations of municipalities in the decision-making process in the field of local self-government;
- In *Croatia*, the Congress highlighted the lack of formal consultation with local and regional representatives, notably on financial and fiscal matters;
- The Congress asked *Cypriot authorities* to draw up a legislation setting out formally the procedures for consulting local authority representatives and national associations of local authorities ensure that they are effectively consulted, in due time and in an appropriate manner, on all questions concerning them directly, in particular on financial questions;
- The Congress asked the *Czech Republic*<sup>37</sup> to develop and formalise the mechanisms of consultation with local and regional authorities on matters concerning them directly by a specific law, which would provide details on the consultation process;
- The Congress recommended *Estonia*<sup>38</sup> to clarify the procedure of consultation with local authorities and national associations of local authorities in order to make discussion possible prior to the final decision making;
- *Georgia*<sup>39</sup> was asked to recognise the representative position of NALAG (National Association of Local Authorities of Georgia) as an interlocutor and partner and involve this Association in the discussions and negotiations regarding local and regional autonomy, ensuring at the same time the engagement of a wide range of stakeholders representing local government, as well as their territorial, thematic and professional associations;
- In *Germany*<sup>40</sup> the participatory rights of associations of local authorities need strengthening since, although the mode of consultation with such associations is formally recognised in the procedural rules of the federal government and the Bundestag's rules of procedure, it is not covered in those of the *Bundesrat*, nor is it institutionally enshrined in the Constitution. The right of the associations of local authorities to be consulted at federal and *Land* level should therefore be set out in the Basic Law and in all the constitutions of the *Länder*;
- The Congress recommended *Greece*<sup>41</sup> to improve the consultation processes among the State, regions and municipalities for all matters which concern them directly;
- *Hungary* should consult local authorities and their national associations and define the consultation partners so that appropriate and effective consultation is arranged, in practice, within reasonable deadlines on all issues of interest to local authorities;
- In *Ireland*, consultations with local authorities and their associations were found to be neither systematic nor sufficiently regulated to allow the latter to be involved in the decision-making process on matters which concern them and to make an input into a proposed reform;
- In *Luxembourg*,<sup>42</sup> a legal basis should be created for compulsory consultation of municipalities through their most representative association on any subject of direct interest to them; in 2015, the

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37 Recommendation 319 (2012) Local and regional democracy in the Czech Republic. Debated and adopted by the Congress on 21 March 2011, 2nd Sitting (see Document CG(22)6 explanatory memorandum), rapporteurs: Emil Calota, Romania (L, SOC), and Philippe Receveur, Switzerland (R, EPP/CD).

38 Recommendation 294 (2010) Local Democracy in Estonia. Discussed and adopted by the Congress on 28 October 2010, 3rd Sitting (see Document CPL(19)5, explanatory memorandum), rapporteur: Jakob (Jos) Wiene, the Netherlands (L, EPP/CD).

39 Recommendation 334 (2013) Local and regional democracy in Georgia. Debated and adopted by the Congress on 19 March 2013, 1st Sitting (see Document CG(24)10, explanatory memorandum), rapporteurs: Nigel Mermagen, United Kingdom (L, ILDG) and Helena Pihlajasaari, Finland (R, SOC).

40 Recommendation 320 (2012) Local and regional democracy in Germany. Debated and adopted by the Congress on 21 March 2012, 2nd Sitting (see Document CG(22)7, explanatory memorandum), Rapporteur: Britt-Marie Lövgren, Sweden (L, ILDG).

41 Recommendation 375 (2015) Local and regional democracy in Greece. Debated and adopted by the Congress on 25 March 2015, 2nd Sitting (see Document CG/2015(28)8FINAL explanatory memorandum), co-rapporteurs: Artur Torres Pereira, Portugal (L, EPP/CCE) and Gudrun Mosler-Törnström, Austria (R, SOC).

42 Recommendation 172 (2005) on local democracy in Luxembourg. Debated and approved by the Chamber of Local Authorities on 1 June 2005 and adopted by the Standing Committee of the Congress on 2 June 2005 (see Document CPL (12) 6, draft recommendation presented by C. Newbury (UK, L, EPP/CD), rapporteur). See also Recommendation 380(2015) Local democracy in Luxembourg. Adopted by the Congress on 22 October 2015, 3rd sitting (see document [CPL/2015\(29\)5FINAL](#)).

Congress still pointed out the partial compliance with the principle that local authorities must be consulted on all matters concerning them directly;

- In *Portugal*,<sup>43</sup> it was noted that local authorities and their representative associations are not systematically consulted on the basis of a clear, generally binding and functioning procedure.

- *Spanish* authorities were asked to reform the institution of the Senate with the aim of conferring on this institution a real role of territorial representation.

35. A good practice was pointed out in *Finland*,<sup>44</sup> where there is an exemplary culture of consultation and involvement of local authorities by central government; Co-operation and co-ordination between local and regional authorities are guaranteed by a powerful and influential association, the Association of Finnish Local and Regional Authorities, which is very closely involved in discussions with the government about all issues concerning local and regional authorities. Also in *Norway* the central government actively promotes and largely consults different co-operation structures and associations bringing together local and regional authorities; in *Poland*,<sup>45</sup> good practice in consultation and dialogue is exemplified by the Joint Committee.

36. The Congress has stressed in its recommendations concerns relating to local and regional competences. The following are regularly identified:

- a.) limitation of competences conferred on local authorities – and particularly the lack of genuine local government functions - thereby limiting their scope to act as well as the quality of service they can deliver in the interest of the citizens;
- b.) imprecise delimitation of competences at central, regional and local level – which can give rise to ambiguity and an overlapping of responsibilities;
- c.) excessive and detailed state (and European) norms and standards which place considerable limits on local initiatives and local authorities' discretion to manage their own affairs.

The Congress also documented numerous cases where the consultation between local and regional authorities (mostly through their associations) and the central government was problematic. In this respect, the Congress identified the following issues:

- a.) absence of a formal mechanism of consultation;
- b.) inadequate consultation of local and regional authority representatives or insufficient use in practice of the existing consultation mechanisms;
- c.) controversial nature of the means of consultation and the (limited) time-frame

In monitoring reports, also the following specific causes of Chapter violations are being mentioned:

- a.) assignment of municipal tasks on an ad hoc basis due to implementation of legislation details and of European Directives (art. 4.1)
- b.) confusion and overlapping of responsibilities due to technically insufficient legislation which de facto empowers stronger upper level authorities (including consortia, provincial/regional and/or state authorities) (art. 4.2. and 4.4.)

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explanatory memorandum), rapporteurs: Dorin Chirtoacă, Republic of Moldova (L, EPP/CCE) Marianne Hollinger, Switzerland (L, ILDG).

43 Recommendation 323 (2012) Local and regional democracy in Portugal. Debated and adopted by the Congress on 22 March 2012, 3rd Sitting (see Document [CG\(22\)11](#), explanatory memorandum), Rapporteurs: Jos Wielen, Netherlands (L, EPP/CD) and Devrim Çukur, Turkey (R, SOC).

44 Recommendation 311 (2011). Local and Regional Democracy in Finland. Debated and adopted by the Congress on 18 October 2011, 1st Sitting (see Document CG(21)13, explanatory memorandum), rapporteur: Jean-Louis Testud, France (L, EPP/CD).

45 Recommendation 373 (2015). Local and regional democracy in Poland. Debated and adopted by the Congress on 26 March 2015, 3rd Sitting (see Document CG/2015(28)12FINAL explanatory memorandum), co-rapporteurs: Jakob (Jos) Wielen, Netherlands (L, EPP/CCE) and Cynthia Hughes, United Kingdom (R, SOC).

- c.) complicated multi-level structures frustrating clear delineation of competence (art. 4.4.)
- d.) persistent low capacities at the local level (due to territorial fragmentation and/or weak resources) and inability of local authorities to perform their tasks and take advantage of the subsidiarity principle
- e.) central governments are eager to implement their own policy priorities at the local level and tend, therefore, to overload local authorities with mandatory delegated tasks at the cost of genuine decentralisation and subsidiarity
- f.) even when decision-making directly concerns local authorities, many central governments prefer top-down and exclusive policy-making instead of inclusive leadership and consultation with local authorities.

37. The definition of local competences shall strive to achieve clarification of the respective areas of competence of the different levels of governance without, however, limiting the local authority's scope of action and allowing them the discretion to develop and improve services. In almost all recommendations adopted in the reference period, the Congress called on national authorities to clarify the areas of competence in line with the principle of subsidiarity so as to avoid ambiguity and overlapping of responsibilities. The Congress also underlined the significant contribution that a unified national association of local authorities can make in discussions with the government on behalf of local governments or their local and regional associations. The Congress has asked national authorities to develop more institutionalised and legally guaranteed consultation mechanisms - within uniform time - so as to allow local authorities and their representative associations to input into those decisions taken at State level which might limit the autonomy of territorial authorities. Further measures to address implementation problems should be:

- a.) Consolidation of local authorities (through territorial reforms, amalgamations and/or inter-municipal cooperation) in order to increase local capacities and abilities to perform tasks.
- b.) Consultation of local authorities should become a required part of policy-making that is expected to contribute to good governance.
- c.) For EU-members, consultation of local authorities should also become a required part of national deliberation prior to negotiations at the European level and adaptation to EU-norms. National Associations should enhance cooperation with Committee of the Regions.
- d.) National legislation should restrain from imposing detailed norms defining implementation of national policies at the local level. Normative impact assessment should include possible normative impacts on local autonomy.

## 5. ARTICLE 5 – PROTECTION OF LOCAL AUTHORITY BOUNDARIES

### 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.

38. As already mentioned, Article 5 of the Charter refers to a particular field of consultation (changes to territorial government borders), while Article 4 para. 6 introduces the general right of consultation, also referring to some guiding principles. More specifically, Article 5 of the Charter contains a procedural safeguard of territorial self-government rights; it requires a consultation with the concerned territorial government(s) on any plan to change its boundaries *before* any action has been taken. This principle underlines the basic requirement that the affected authorities must be notified about any proposal to change their boundaries. This relates to both cases when an individual authority's boundaries change, and when the whole territorial government system is transformed. The decision maker, before any final action, is obliged to ask the view of the territorial communities concerned. In other words, any change of territorial government boundary may take place only after seeking the opinion of the affected authorities, municipalities and/or regions. In this way the spirit of the Charter, that requires a partnership between central government and territorial authorities based on mutual trust and co-operation, is respected.

39. By definition, the general provisions of Article 4 para. 6 also apply to the specific field of changing borders. The requirement of Article 4 para. 6 for an “appropriate way” of consultation is to be seen as a “rationality” principle of consultation, which obviously requires that consultation should take place in a way that provides real opportunity for territorial authorities to formulate and articulate their own views and proposals. Certainly, there is no guarantee that the central authorities, entitled to legislate or make policy decisions by law, will accept the opinions of sub-national territorial authorities, but it is an inherent requirement that they have to take them into account, before taking any final decision.

40. Two countries stated that they do not consider themselves bound by Article 5: *Georgia* and *Greece*. Out of the other member states, twenty-two comply with Article 5, while nine partially complied and in three cases a violation of the Charter was found:

- In *France*, the procedures employed for passing Law No. 2015-29 of 16 January 2015 on regional boundaries, regional and departmental elections and changes to the election timetable have not been considered to be in line with the Charter (Art. 4 paragraph 6, read together with Article 5). Therefore the Congress recommended<sup>46</sup> to draw up legislation setting out the procedures for consulting local authority representatives to ensure that they are effectively consulted, i.e. in due time and in an appropriate manner, on all questions directly concerning those authorities, including financial questions, and *a fortiori* on changes in their boundaries (Article 4, paragraph 6, Article 5 and Article 9, paragraph 6);

- The *Russian Federation* was asked in 2010 to ensure that settlements are only merged after full consultation with the elected assemblies concerned.

41. Violations of Article 5 are mostly due to top-down and exclusive policy-making of national governments. Policy makers at the national level are often afraid that consultation with concerned local communities prior to amalgamation and consolidation would facilitate the formation of opposition alliances and blockades that would frustrate their reform strategies. They are also afraid that extensive public deliberation could drastically change or even falsify their original reform plans. Since territorial reforms are time-demanding and public deliberations are time-consuming, reformers are afraid that they would lose momentum if they would initiate complicated public deliberation and complex consultation procedures. Finally, long-lasting public debates are sometimes resulting in litigations with unpredictable ends. Governments are also avoiding consultation with single local authorities and prefer consultation with national associations of local government or upper houses, since party loyalties and majoritarian politics can suppress localist opposition to territorial reforms.

42. The Congress recommends introducing legislation which would be setting out procedures that will ensure appropriate and timely consultation of each local authority concerned. Such inclusive procedures take advantage of local knowledge and can drastically increase practicability and public acceptance of reform plans.

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<sup>46</sup> Recommendation 384 (2016) Local and Regional Democracy in France. Debated and adopted by the Congress on the 22nd of March 2016, 1st Sitting (see Document CG30(2016)06-final, explanatory memorandum), co-rapporteurs: Jakob (Jos) Wiene, Netherlands (L, EPP/CCE) and Gudrun Mosler-Törnström, Austria (R, SOC).

## 6. ARTICLE 6 – APPROPRIATE ADMINISTRATIVE STRUCTURES AND RESOURCES FOR THE TASKS OF LOCAL AUTHORITIES

### 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.

43. Upper level legislation should not impose a rigid organisational structure. The establishment of certain committees or the creation of certain administrative posts could be acceptable, but local authorities should in principle be autonomous in organizing their services and setting management priorities. Staff should be recruited on the basis of merit and competence and conditions of service should attract high-quality personnel.

44. *Serbia* declared not to be bound by Article 6, while *Czech Republic, Georgia, Liechtenstein, Montenegro* and *Switzerland* are not bound by the second paragraph of article 6. As regard to the *Netherlands*, the Dutch authorities declared that according to their view, Dutch local authorities may not take any financial claims on central government based on the provisions of Article 6, para. 2, of the Charter. Most of the other member states comply with article 6, while there were three cases of non compliance with article 6 para.1 and also three with 6 para. 2, while five cases of Charter violations were found concerning each of the two paragraphs.

- In *Azerbaijan*, for instance, the Congress found there are gaps in the legislation governing the status and responsibilities of municipal servants on the one hand, and their rights and obligations on the other;

- In *Cyprus* the Congress observed the differences between the municipalities and communities with regard to their staff (Article 6 para. 2);

- In *Italy*, Recommendation 337(2013) pointed out the cuts in personnel and the arbitrary character of the financial restriction for the staff of local authorities (“linear cuts”) (Article 6 para.1); therefore it was suggested to ensure a sensitive application of cash saving measures in the public sector;

- In the *Republic of Moldova*, the Congress noted with regret local authorities’ limited freedom in recruiting and fixing the conditions for the remuneration of local government officials, and the existence of discrimination between public officials working for central government and those working for local government officials with regard to their conditions of service and payment.

45. Evaluation of monitoring reports has shown that in several countries recruitment of municipal staff and conditions of service are threatened by austerity policies. In some countries municipal civil service is still considered to be “second class” compared to state civil service, while it is also more exposed to policies of outsourcing and privatization. Situation is also very different in local authorities, depending on size, site, wealth and overall situation of each authority, since attracting, for instance, high-skilled personell is often depending on career and remunerations prospects, furthermore it is usually much easier for big cities and wealthy or/and pleasant places. Finally, self-determination of internal administrative structures has been restricted in many countries implementing national austerity and consolidation policies.

46. In order to address these issues, following measures should be adopted:

- Status, remuneration and career perspectives of local government employees should not be inferior to state civil service. Intra-government mobility, both horizontally (among local authorities) and vertically (across different levels of governance) should be possible.

- National governments, in close cooperations with municipal associations should elaborate and implement legal and operational measures enabling merit system in local government administrations and promoting training opportunities for local government personnel
- Legal framework should explicitly provide for self-determination of internal administrative structures.

## 7. ARTICLE 7 – CONDITIONS UNDER WHICH RESPONSIBILITIES AT LOCAL LEVEL ARE EXERCISED

### 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.

47. Article 7 aims at preventing that elected representatives are prevented by the action of a third party from carrying out their functions; furthermore, that some categories of persons may not be prevented by material considerations from standing for office. Finally, the last paragraph of this article aims at ensuring that disqualification from the holding of local elective office will only be based on objective legal criteria and not on ad hoc decisions.

48. Reservations of countries refer only to paragraph 2 which provides for financial compensation, remuneration and social welfare protection. Some of these countries used to face pressing fiscal problems or had to deal with very big numbers of elected representatives due to fragmentation of municipal structures. However, this is not anymore the case in many of them. But the number of reservation remains impressive: Twelve countries (nearly one fourth of the signatory parts), declared not to be bound by Article 7 paragraph 2: *Armenia, Austria, Azerbaijan, Bulgaria, the Czech Republic, France, Greece, Montenegro, Netherlands Romania, Serbia and Switzerland.*

49. Monitoring reports found six cases of partial compliance and two violations concerning paragraph 1, while there were six cases of partial compliance with paragraph 2 and two violations of paragraph 3.

- The Congress called on *Georgian* authorities, for instance, to take immediate and effective action to ensure the autonomy and independence of local authorities and democratically elected representatives, so that national election results do not influence local government representative structure;

- *Austria* was asked to consider modifying existing legislation in order to tackle the issue of liability of mayors in executing their functions;

- Concerning *Cyprus*, recommended the national authorities to regulate the legal standing of local councillors allowing the free exercise of their functions;

- In *Ireland*, it was found that conditions of office of local elected representatives are insufficiently regulated by general legislation (Labour Code). The Congress recommended Ireland to consider establishing a clear and specific legislative basis regarding the conditions of office of local elected representatives, particularly as related to rules for private employers to provide “free time” to elected officials for participation in local matters;

- *Spain* was asked to revise legislation in order to fix a minimum and maximum threshold for remunerating local elected officials in accordance with Article 7 para. 2 of the Charter and, in the same spirit, to provide rules of remuneration for members of the parliaments of the Autonomous Communities, which will allow them to perform their duties properly;

- Authorities in the *United Kingdom* were asked to re-evaluate the work of executive councillors so that their status corresponds better to their responsibilities, with a view to improving the engagement of citizens and particularly the younger generation who might be discouraged by the economic disadvantages of full-time council work;

- Finally, the *Russian* authorities were invited in 2010 to revoke amendments concerning the dismissal of mayors, to ensure that mayors are free to carry out their elected mandates without interference or political pressure from governors.

50. There are relatively few cases where free exercise of functions by local elected representatives was found to be threatened by state authorities. Dismissal of mayors and other practices threatening the freedom and independence of elected officials were found in few countries with problematic human rights' and local democracy records. Much more often, on the contrary are problems related to financial compensation, leaves and social welfare for elected officials. These problems seem to be particularly intensive in smaller local authorities where elected politicians are obliged to fulfil various tasks which are elsewhere performed by professional administrators.

51. Potential measures to address identified issues would be:

- Frequent monitoring of situation of elected local politicians in countries where free exercise of their functions is being systematically threatened. Strong pressure on national authorities to introduce additional institutional guarantees and safeguards concerning the status of local representatives.
- Provide more discretion and flexibility to local budgets and local decision makers concerning financial compensation for elected office from own resources of local authorities. Local politicians are accountable to local communities which are characterized by strong awareness concerning own municipal revenue and its spending.

## 8. ARTICLE 8 – ADMINISTRATIVE SUPERVISION OF LOCAL AUTHORITIES' ACTIVITIES

### 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.

52. According to the Charter, any administrative supervision of the activities of the local authorities shall normally aim only at a control of legality and must be proportionate. In face of the tradition of tutelle that used to prevail in many countries, the Charter provides for some important rules and principles restraining state supervision and promoting local autonomy. Paragraph 1 of article 8 requires an adequate legislative basis for supervision and rules out *ad hoc* supervisory procedures. Paragraph 2 introduces control of legality as the norm and only accepts expediency control when it concerns delegated powers and under the conditions that discretion foreseen in Art. 4 para. 5 is not eliminated. Finally, in paragraph 3 the principle of proportionality is introduced as a measure of proper use of supervision powers.

53. Concerning paragraph 2, six countries declared not to be bound (*Austria, Belgium, Greece, Montenegro, Netherlands and Switzerland*), while concerning paragraph 3 only three countries did the same (*Belgium, Montenegro, Serbia*). The monitoring reports found four cases of partial compliance and five cases of violations concerning the first paragraph. The second paragraph was partially complied with by eight countries, while in two cases violations of the Charter were found. Partial compliance of paragraph 3 seemed to happen in seven countries while two cases of Charter violation were recorded.

- Concerning *Azerbaijan*, for instance, the lack of clarity of the law on the status of municipalities was highlighted, regarding the procedure of supervision over municipalities, and notably the local governments' obligation provided by Article 146-IV of the constitution, to report to the parliament about their own operations (Article 8 of the Charter); It was recommended to clarify the legislation and determine the exact role of the administrative authorities which are empowered to exercise legal supervision over municipalities, thereby eliminating the uncertainty in the legislation which contradicts the European Charter of Local Self-Government;
- The Congress asked *Bulgaria* to revise the legislation on the supervision of administrative activities related to their own competences in order to ensure that any annulment of these is carried out only through a judicial procedure, on referral by the regional governor; furthermore to revise the legislation on the supervision of local governance bodies in order to specify those cases in which dismissal or dissolution may be carried out;
- In *Cyprus*, the Congress highlighted the importance of government supervision on the exercise of the regulatory powers of local authorities and on the personnel, administrative and budgetary resources. It asked the Cypriot authorities to determine precisely, by way of legislation, which administrative authorities are empowered to exercise legal supervision over municipalities, and limit every kind of government supervision over local governments to an *ex post* control of legality of the operation and regulation of the municipalities and communities,
- *Iceland* was asked to stipulate in domestic legislation the cases in which the minister responsible for local government may exercise supervision over local authorities' performance, and set out the related procedures;
- In *Armenia*, supervisory powers of central government extend not only to a review of the legality of the local community's action, but also to the economic and financial aspects of local government matters, in contradiction to the provisions of the Charter;
- In the *Republic of Moldova*<sup>47</sup> the rapporteurs highlighted local authorities' very limited financial and fiscal autonomy, which is reflected in the excessive oversight exercised by the national authorities over tier II and by tier II over tier I, in particular with regard to the management of financial resources; furthermore the lack of regulations for expediency checks, sometimes carried out at its own discretion, by central government on the way in which local authorities exercise the powers delegated to them by the State;
- In *Turkey*,<sup>48</sup> the Congress found in 2011 that the provisions on administrative tutelage had been maintained in Article 127 of the Turkish Constitution and other laws and thus remain an obstacle to the general Turkish decentralisation project;
- *Albania* was asked to ensure, through legislation, that the supervision exercised by the central authorities on the decisions taken by the communes and municipalities within the remit of their delegated and shared competences, does not allow for a disproportionate control over local government affairs.
- The *Czech Republic* should try to co-ordinate and simplify the overall system of administrative supervision in order to ease the burden put on municipalities and regions through supervision and data collection exercised by different branches of central government;
- In *Norway*, the control exercised by the government through a too dense and specific sectoral legislation may lead to a considerable degree of supervision;
- *The Russian Federation* was asked to improve legal safeguards to ensure that local authorities are not subject to excessive levels of supervision by higher authorities;

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47 Recommendation 322 (2012) Local and regional democracy in the Republic of Moldova. Debated and adopted by the Congress on 22 March 2011, 3rd Sitting (see Document CG(22)10 explanatory memorandum), rapporteurs: Francis le Lec, France (L, SOC) and Angelo Miele, Italy (R, EPP/CD).

48 Recommendation 301 (2011) Local and regional democracy in Turkey. Debated and adopted by the Congress on 24 March 2011, 3rd Sitting (see Document CG(20)6, explanatory memorandum), rapporteurs: Anders Knape, Sweden (L, EPP/CD) and Herwig Van Staa (R, EPP/CD).

- *Serbian* authorities were asked to revise the constitutional provision allowing central government to dismiss municipal assemblies and simultaneously appoint a temporary body to perform their duties, in order to ensure that an excessive use thereof is avoided.

54. The evaluation of monitoring reports and recommendation on article 8 shows that the most common problem is the disproportionate intervention of supervision authorities, with insufficient counteract remedies for the local and regional authorities. Excessive government supervision over local governments, in law or in practice, places considerable limits on local authorities' discretion to manage their own affairs. Monitoring reports, also highlight the following causes of Charter violations:

- Unclear provisions in national legislation, enabling extensive interventions of supervision authorities and restricting local discretion.
- Supervision authorities exercise expediency controls not only over delegated tasks but also over genuine local affairs, sometimes taking advantage of the fact that distinction between delegated and genuine tasks is not sufficiently clear in national legislation.
- Financial controls are often instrumentalized in order enable expediency controls disguised as supervision of compliance with the law.
- Disproportionate interventions of supervision authorities (e.g. dismissal of elected organs for minor offenses) are sometimes an expression of political conflict.

55. Potential measures to address these violations and implementation problems would be:

- Systematic legislation that would clearly define the nature of local authorities' tasks and introduce substantial and procedural safeguards concerning the exceptional cases where expediency controls are allowed according to the Charter
- Financial controls should not be used for expediency controls and stay in line with their particular role and mission which should be clearly defined in legal norms
- Disproportionate interventions of state authorities should not be allowed in legislation and in anyway checked by independent bodies or/and courts.

## 9. ARTICLE 9 – FINANCIAL RESOURCES OF LOCAL AUTHORITIES

### 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.

56. Financial autonomy is an essential corollary of local autonomy as it enables local authorities to perform their tasks and engage in long-term planning. The Charter provides in particular that local governments shall be entitled to adequate and sufficiently diversified financial resources of their own that shall be commensurate with their competences. Lack of financial autonomy renders local authorities vulnerable to the economic climate and may lead to economic and political dependency on the government.

57. In Article 9, paragraph 1, the Charter provides for “adequate” own resources and the ability of local authorities to determine expenditure priorities. According to monitoring reports and recommendations, only seven countries were found to comply with the Charter while there were twelve cases of partial compliance and no less of seventeen cases where a violation of the Charter was found. As a matter of fact, the first paragraph of Art. 9 is thus the most frequently violated provision of the Charter (alongside with the following paragraph 2 of the same article):

- In *Azerbaijan*, the weak financial potential of municipalities is due to low-level State transfers provided to them and the ineffectiveness of the tax collection mechanisms available to municipalities. Furthermore, there is lack of municipal property while the slowness of property transfers from the State to municipalities, in particular as regards land, was highlighted;

- *Bosnia and Herzegovina* should adopt a legal framework recognising municipal property, thus enabling the calculation of the revenue base of local authorities;

- In *Bulgaria*, the budgetary regulations, and particularly the procedure for the "consolidated budget" which is adopted by the government, were considered to restrict local authorities' autonomy;

- In *Croatia*, the inadequacy of resources available to local and regional authorities to exercise their powers still remains a source of concerns as well as the cut in local tax revenues brought about by the amendments to the relevant legislation

- The Congress recommended *Cypriot authorities* to relinquish the power of government to give prior consent to the budget of each local government;

- The Congress asked the authorities of the “*former Yugoslav Republic of Macedonia*”<sup>49</sup> to envisage the property transfer of land to local authorities, in order to increase their autonomy and improve their financial situation;

58. Article 9, paragraph 2, introduces the commensurability principle, which means that there should be an adequate relationship between the available resources and the performed tasks<sup>50</sup>. An important shortcoming is that the cost of the respective services is estimated at the moment of competence transfer and the dynamic character of cost development in time is often not sufficiently taken into consideration.

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49 Recommendation 329 (2012) Local democracy in “the former Yugoslav Republic of Macedonia”. Debated and approved by the Chamber of Local Authorities on 17 October 2012 and adopted by the Congress on 18 October 2012, 3rd Sitting (see Document CPL(23)2, explanatory memorandum), rapporteurs: S. James, United Kingdom (L, ILDG) and A. Buchmann, France (R, SOC). Since the adoption of Recommendation 329 (2012), the Law on Construction Land, entered into force in 2015, provides that the municipalities can sell and rent the construction land under conditions and the Ministry of Transport and Communications adopted a Regulation in 2016, by which 80% of the money from sold or rented construction land goes to the municipality and 20% to the State.

50 Recurrent violations of Article 9 have already drawn the attention of the Congress. See Recommendation 362 (2014) Adequate financial resources for local authorities, and the relevant study of Professor Alain Delcamp on The financial resources of local authorities in relation to their responsibilities (Application of Articles 9 and 4, paragraphs 4 and 5, of the European Charter of Local Self-Government), doc. CPL (5) 4 Part II.

59. *Andorra, Belgium and Monaco* declared they were not bound by Article 9 para. 2. According to the adopted monitoring reports and recommendations, thirteen countries complied only partially, while in sixteen countries, a violation of the Charter was found:

- *Cyprus*, for instance, was asked to provide adequate financial resources for local authorities which should be commensurate with their responsibilities and which they may dispose of freely within the framework of their powers;
- In *Denmark*, the inadequacy of financial resources freely available to local authorities in the framework of their competences was found;
- The Congress called on *Estonia* to change the domestic legislation urgently to allocate a greater proportion of financial resources for local authorities in order to make them commensurate with the responsibilities provided for by the Estonian Constitution and national law;
- The *Hungarian* authorities were asked to grant local authorities financial autonomy to enable them to exercise their powers properly, in particular by adjusting the level of grants allocated by the central government to local authorities so that their resources remain commensurate with their powers;
- In *Lithuania*,<sup>51</sup> it was found that municipalities do not have sufficient resources to deliver the services under their responsibility (a situation exacerbated by the economic crisis but also by the fact that the termination of the county administration put the burden of additional tasks on local authorities);
- In *Poland*, the Congress concluded that competences delegated to the local and regional level are increasing but adequate concomitant funding to carry out the tasks is lacking, for example in the field of education;
- *Spain* was asked to ensure that, in accordance with the legislation, each transfer of powers to local authorities is guaranteed by adequate financial resources.

60. According to Article 9, paragraph 3, resources should derive also from local taxes and charges with power to determine the rate. In deed the exercise of political choice in weighing the benefit of services provided against the cost to the local taxpayer or the user is a fundamental duty of locally elected representatives. However, there is currently an obvious tendency to recentralise decision-making on tax rates and bases.

61. The *Czech Republic, Liechtenstein, Malta, Monaco and San Marino* do not consider themselves bound by Article 9, paragraph 3, while *Germany* declared that the scope of Article 9 para. 3 does not apply to municipal associations (*Gemeindeverbände*) and counties (*Kreise*) in the *Land* of Rhineland-Palatinate and that in all other *Länder*, the same paragraph did not apply to the *Kreise*.<sup>52</sup>

62. Monitoring reports and recommendations mention thirteen country cases of partial compliance, while ten violations of the Charter were found:

- In *Austria*, for instance, the Congress noted that municipalities have practically no discretion with regard to local taxes and the proportion of own-source taxes in budget revenue, amounting to 21%, is relatively low. The fiscal autonomy of both Austrian municipalities and *Länder* is too limited to allow the effective decision-making powers;
- *Croatia* was asked to reconsider the conditions governing local taxation and, in particular, the setting of tax rates by local authorities in order to give these authorities greater freedom of action with regard to their own resources and thus to move away from dependence on the state;

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51 Recommendation 321 (2012) Local and regional democracy in Lithuania. Debated and approved by the Chamber of Local Authorities on 21 March 2012 and adopted by the Congress on 22 March 2012, 3rd sitting (see Document [CPL\(22\)3REV](#), explanatory memorandum), Rapporteurs: Irene Loizidou, Cyprus (L, EPP/CD) and Gudrun Mosler-Törnström, Austria (R, SOC).

52 This reservation may be related to the traditional system of county finance, also based on allocation of municipal resources to the counties, the so-called "*Kreisumlage*".

- The Congress called on *Estonia* to allow local authorities to raise revenues from local taxes;
- *France* was asked to revise the legislation in force on the conditions governing local taxation and, in particular, the setting of tax rates by local authorities in order to give these authorities greater freedom of action with regard to their own resources and thus avoid any trend towards recentralisation in this field;
- The Congress called on *Greek* authorities to boost the fiscal autonomy of local authorities, with the aim of ensuring the sustainability of the financial situation of local authorities;
- *Netherlands* were asked to improve local taxation so that local authorities can raise their own funds, in line with the requirements of the Charter;
- *Slovenian*<sup>53</sup> authorities were asked to increase the local authorities' revenue autonomy by widening local tax and fees revenue and ensure that the criteria used to calculate the per capita amount is revised and tied in more closely with local government functions;
- *Spain* should boost the fiscal autonomy of municipalities, with the aim of ensuring the sustainability of the financial situation of local authorities, by creating appropriate conditions and policies so that the major form of revenue for municipalities comes from their own resources and not from transfers that are awarded by the regions and by the State;

63. A good practice was found in *France*, since it was clear, that the "financial autonomy ratio" (with the year 2003 as a fixed minimum) of the French law is certainly a positive framework in order to ensure that this part of "own resources" remains important and prioritisation of revenue through local political decisions on local taxation remains, therefore, possible.

64. According to Article 9 paragraph 4 the financial system should be of sufficiently diversified buoyant nature in order to keep pace with the real evolution of the cost. Dynamic sources of revenue should be included since certain taxes or sources of local finance are, by their nature or for practical reasons, relatively unresponsive to the effects of inflation and other economic factors.

65. Concerning Article 9 para. 4 there were six cases of partial compliance and four country cases of Charter violation:

- The Congress called on *Greece* to diversify the financial system of sources of local authorities' revenue by developing the foundations of greater financial autonomy through the levying of local revenues.

66. Article 9, paragraph 5, refers to the financial equalization system and procedures. For the purpose of reducing financial disparities between local authorities, the Charter also calls for a transparent and predictable financial equalisation mechanism which shall be reactive to changes in the economic climate. *Andorra, Azerbaijan, the Czech Republic, the Netherlands and Switzerland* issued a declaration in respect of Article 9, paragraph 5. In other countries, no less than twenty-two cases of partial compliance and five cases of Charter violation were found:

- The Congress recommended *Croatia* to introduce a financial equalisation mechanism between local authorities;
- Concerning *Denmark*, the insufficiency of the mechanisms and procedures for financial equalisation at the local and regional levels and the consequent unequal distribution of financial burdens were highlighted;

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53 Recommendation 308 (2011) Local and regional democracy in Slovenia. Debated and adopted by the Congress on 18 October 2011, 1st Sitting (see Document [CG\(21\)12](#), explanatory memorandum), rapporteurs: Jakob (Jos) Wielen, the Netherlands (L, EPP/CD) and Merita Jegeni-Yıldız, Turkey (R, EPP/CD).

- The Congress recommended *Estonia* to set up a support fund for local authorities particularly affected by the economic crisis so that they are able to continue delivering certain social services;
- *Finnish* authorities should ensure an equal standard of basic services throughout the country, if necessary by means of additional transfers from central government to municipalities with deficits. The country has positively responded to this recommendation;
- The Congress asked *France* to revise the financial equalisation system so that it actually serves its purpose of reducing financial disparities between local authorities and meets the requirements of transparency, by promoting a system of equalisation between levels of government;
- The Congress had recommended *Iceland* to set up a support fund for local authorities particularly hard hit by the crisis so that they would be able to continue delivering certain public social services.
- With regard to *Ireland*, the Congress noted that the equalisation mechanism is not transparent and, although local governments have the formal freedom to adopt budgets, such freedom is severely limited in practice;
- In *Italy*, the Congress highlighted the insufficiency of the mechanisms and procedures for financial equalisation at the local and regional levels and the corresponding financial unfairness and inequality;
- In *Poland*, higher revenue local and regional government bodies found the equalisation system burdensome at a time of economic stagnation as contributions were calculated on revenues earned in an earlier growth period. The Congress called on Polish authorities to adjust the equalisation system so as to be more reactive to changes in the economic climate, for example by reviewing the scale of donations;
- *Portuguese* municipalities have been affected in unequal ways by the economic and financial effects of the crisis, and the state restrictions concerning indebtedness have shortcomings with regard to a fair distribution of charges. According to the Congress Recommendation, Portuguese authorities should consider setting up, on a temporary and flexible basis, special aid programs or procedures to strengthen the economic competitiveness of those municipalities that have been more seriously affected by the economic and financial crisis;
- *Slovakia* was asked to fully implement the 2015 conclusions of the National Audit Office's report on the financial situation of local governments, consider rebasing the tax redistribution system on the criteria of the local authorities' needs rather than on their fiscal effort (Article 9, paragraphs 5 and 2, respectively).

67. A good practice was found in *Germany* where the efforts made by some *Länder* to establish special funds and to launch subject-specific programmes to help local authorities in need to tackle their liquidity problems and to prevent further indebtedness.

68. According to Article 9, paragraph 6, consultation should be made about allocation of redistributed resources. *Azerbaijan, Belgium, the Czech Republic, Georgia and Turkey* declared not be bound thereof. In the rest of the countries, monitoring reports and recommendations found five cases of partial compliance and seven country cases of Charter violations:

- The Congress called on *Croatian* authorities to draw up legislation setting out the procedures for consulting local and regional authority representatives to ensure that they are effectively consulted, that is in due time and in an appropriate manner, on all questions directly concerning those authorities, in particular on financial questions
- *Cypriot authorities* were also asked to draw up legislation setting out formally the procedures for consulting local authorities effectively, in particular on financial questions.

- In *Italy*, the Congress highlighted the lack of mechanisms for consultation of local authorities by the government in an appropriate manner, on issues related to the redistribution of financial resources to be allocated to them;

69. According to Article 9, paragraph 7, state grants should not be earmarked for specific projects. Provision of grants should not remove policy discretion of local governments. *Belgium, Switzerland* and *Turkey* declared not to be bound by Article 9, paragraph 7. Monitoring reports and recommendations found six cases of partial compliance and five country cases of Charter violation:

- In *Albania*, it was found that local authorities are heavily dependent on financial assistance from the State, which resorts to the practice of cutting unconditional grants in certain cases;

- *Azerbaijan* should distribute State transfers and special grants in a transparent and predictable manner, taking the interests of local governments into consideration;

- It was recommended to *Cyprus* to establish a transparent and predictable method to calculate central grants to local authorities based on a careful assessment of local needs;

- With regard to *Latvia*, the Congress concluded that the economic crisis has led to a reduction in transfers from central to local government. Local authorities' room for financial manoeuvre has accordingly declined and central government's oversight of their finances has been strengthened.

70. Article 9 paragraph 8 of the Charter provides that local authorities should have access to the national capital market for capital investment. *Andorra, Latvia, Liechtenstein, Monaco and San Marino* declared that they were not bound by Article 9 para. 8. Monitoring reports and recommendations refer to seven cases of partial compliance, while four country cases of Charter violations were found.

- Concerning *Denmark*, for instance, the rapporteurs highlighted the often strict State supervision of municipal access to the capital markets; therefore, the Congress recommended revising the State's supervisory procedures vis-à-vis local authorities in order to facilitate their access to the national capital markets.

71. An evaluation of the findings, shows that article 9 was the subject of relatively few reservations by countries, while Charter violations (or/and partial compliance) are particularly frequent. This is not only due to the fact that this is the "money-article" but also to the quite systematic structure of this article and the clear principles and criteria it entails. In nearly all of its recommendations, the Congress identified the following concerns, either alternatively or concomitantly:

- over-centralised system of financing of local authorities (part. Art. 9.1);
- inadequacy of financial resources freely available to local and regional authorities to exercise their powers (Art. 9.1.);
- lack of concomitant financing for delegated tasks (Art. 9.2);
- limited level of own income, particularly through setting of tax rates by local authorities (Art.9.3);
- lack of transparent and predictable financial equalisation mechanisms (Art. 9.5);
- lack of appropriate consultation on local finance matters (Art. 9.6.).
- tendency to stricter government control over local finance (especially concerning borrowing)
- in several countries that went through transition, the issue of municipal property, an important asset of local autonomy is still pending.

72. Similar to other articles, violations of article 9 have several causes, but the outbreak of the financial crisis in 2008 and especially the following sovereign debt crisis in 2010 have been catalytic events with serious repercussions for all aspects of financial autonomy. Recentralization tendencies are, however, sometimes also connected to authoritarian tendencies and/or the will to instrumentalize grants and finance in order to subjugate local democracy to central government will and priorities.

In other cases, ongoing social developments (such as the demographic change in Europe) leading to growing costs of social services seem to enhance tendencies of central governments to allocate financial burdens at the cost of local authorities. In monitoring reports, also the following specific causes of Chapter violations are being mentioned:

- lack of effective tax/fee/charge collection mechanisms available to municipalities or/and unwillingness of state authorities to help and cooperate. Sometimes this is due to competitive attitude of state tax authorities (who want to be sure that state taxes will be the first to collect) or/and the will to sustain state dependency of municipalities
- the will to recentralize decision-making power on tax bases and rates in order to control and unify tax policies all over the country and/or avoid municipal tax dumping
- earmarked funding based on central priorities, often ignoring local peculiarities
- allocation of state grants without transparency and clear pre-determined criteria
- costs of delegated tasks are estimated at the moment of competence transfer and the dynamic character of cost development in time is not taken into consideration.
- non-transparent and unfair equalization systems, unflexible and not reactive to changes in the economic climate
- "one size fits all" policies concerning fiscal autonomy, municipal borrowing and local debt
- time pressure, fiscal consolidation concerns and top-down austerity policies frustrate consultation with local authorities (art. 9 par. 6)

73. The Congress therefore recommends the allocation of sufficient financial resources to local authorities, commensurate with their powers and responsibilities. This should be implemented, in particular, through revising legislation concerning fiscal decentralisation and developing or reviewing the criteria and formula of the equalisation mechanisms, on the basis of fiscal capacities and financial needs of communities. The Congress also called for the greater involvement of the local authorities or their representatives in financial matters, including the estimation of cost implications of any new State legislation that is to be implemented at local level. In addition, monitoring reports and recommendations propose the following measures:

- improving tax collection mechanisms at the local level
- improving status and increase discretion in management of municipal property
- local finance should be sufficiently diversified and include both dynamic sources and sources which are, by their nature or for practical reasons, relatively unresponsive to the effects of inflation, recession and other economic factors. This does not mean that local finance should become too complex and non-transparent, since this would frustrate accountability.
- elaborating responsive systems of finance, funding and fiscal consolidation that will sufficiently take into account diversity of needs and characteristics among local authorities.
- developing transparent, fair, diversified, flexible and responsive equalization systems in close cooperation with local authorities and their associations.
- appropriate and timely consultation with local authorities on finance, allocation of grants and austerity policies, especially in periods of crisis, in order to achieve consensus and fairness in burden sharing.
- Avoid top-down and "one size fits all" austerity measures. Seek for tailor-made consolidation agreements with over-indebted municipalities, integrate local authorities into national deliberation on fiscal policies

## 10. ARTICLE 10 – LOCAL AUTHORITIES' RIGHT TO ASSOCIATE

### 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.

74. Article 10 refers to associations of local governments. While paragraph 1 covers co-operation on a functional basis in order to achieve greater efficiency, paragraph 2 is concerned with associations whose objectives are much more general and normally seek to represent local authorities. Finally paragraph 3 refers to international cooperation of local authorities.

75. *Georgia, Greece, Liechtenstein, Monaco and Turkey* declared themselves not to be bound by paragraph 2, while *Georgia, Liechtenstein, and Turkey* announced they consider not to be bound by paragraph 3. Violations of these provisions of the Charter are not common, since only one violation was recorded concerning Article 10 para.1, while there were four country cases of partial compliance with this norm, also four cases of partial compliance with Article 10 para.2 and one case of partial compliance with Article 10 para. 3:

- The Congress recommended that *Austria* enhance the flexibility of municipality associations (*Gemeindeverbände*) by abolishing the remaining limitations to intermunicipal co-operation across *Land* borders and by increasing the competences of such associations. As a concrete result of the monitoring activities of the Congress, the Federal Constitution has been amended in that effect in 2011;

- *Bosnia-Herzegovina* was recommended to strengthen and promote inter-municipal co-operation and the joint delivery of certain public services, in particular across the Inter-Entity Boundary Line, in order to guarantee that all municipalities are able to exercise their powers despite the great fragmentation of the territory of Bosnia and Herzegovina, and to actively support existing initiatives in this direction;

The Congress recommended that *Croatia* re-consider its legislation on the voluntary mergers of local government units with the aim of making voluntary mergers more attractive by disseminating information relating to the benefits of the mergers to communities, including their public services, or considering the implementation of other incentives;

76. Concerning article 10, most problems identified by monitoring reports refer to functional co-operation in order to carry out tasks of common interest. These shortcomings usually derive from insufficient and/or outdated legislation. In some other cases, there are obstacles concerning international cooperation since national governments are eager to sustain their “monopole” on foreign relations.

77. Concerning inter-municipal cooperation on the grounds of task fulfillment; systemization and modernisation of legal framework alongside with cooperation incentives, trust-building mechanisms and state assistance could rather easily reduce the existing shortcoming in some countries. Situation is more complex concerning inter-regional cooperation, sometimes touching upon delicate issues of international relations. Pertinent national legislation, however, can certainly incorporate principles and provisions for international cooperation (including trans-frontier cooperation) adopted in international treaties and international law.

## 11. ARTICLE 11 – LEGAL PROTECTION OF LOCAL SELF-GOVERNMENT

### 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.

78. By recourse to a judicial remedy is meant access to a properly constituted court of law or an equivalent, independent statutory body having the power to rule and advise on the ruling respectively, as to whether any action, omission, decision or other administrative act is in accordance with the law. *Austria*, the *Netherlands* and *Turkey* are the only countries that declared not to be bound by Article 11 of the Charter.

79. Monitoring reports and recommendation refer to eight country cases of partial compliance and five country cases of Charter violation.

- The Congress asked *Bulgaria* to give effective judicial protection to local authorities and grant them a proper right of appeal to ordinary courts;

- *Hungary* should revise the legislation in order to provide local authorities with an effective judicial remedy to secure the free exercise of their powers and guarantee the judicial protection;

- *Iceland* should introduce appropriate legislation to give local authorities a right of appeal against decisions taken at national level which might infringe principles of local self-government enshrined in the Charter;

- In *Italy*, only the regions (and not the provinces or municipalities) have the right to commence proceedings in the Constitutional Court. Therefore the Congress called on the Italian authorities to review the law in order to allow the provinces and municipalities with the right to apply, through a representative, to the Constitutional Court;

- In *Lithuania*, the Congress observed that the Association of Local Authorities of Lithuania does not enjoy the appropriate standing to represent all municipalities before a Court;

- In *Norway*, there was no judicial remedy for municipalities to challenge respective decisions of the central government, as required by Recommendation 203 (2006). Norwegian authorities were asked to bring their legislation and judicial practice into compliance with Article 11 by guaranteeing, in their domestic legal system, local authorities the full exercise of their right to judicial remedies against decisions taken by the state administration;

- In *Portugal*, the associations representing local authority interests do not have the right to appeal directly to the Constitutional Court against a decision or a regulation which would contradict one of their rights; the Congress called on Portuguese authorities to grant the associations representing local authority interests the right to appeal directly to the Constitutional Court;

- In the *Republic of Moldova*, the Congress highlighted the absence of relevant legislation enabling the local authorities or their representatives to take legal action before all their domestic courts in the event of a violation or the risk of a violation of one of their rights;

- The Congress called on *Romania* to provide the local authorities with effective judicial protection by granting them a genuine right to bring an action in the domestic courts;

- *Slovakia* was asked to give larger access to remedies for local and regional authorities by considering the possibility of establishing a special appeal of unconstitutionality when a national law breaches one of the provisions of Chapter IV of the Slovak Constitution, and the opening of regional offices for the Defender of Rights, which may constitute an alternative remedy (Article 11).

80. Monitoring reports have shown that in several countries, local authorities (or a specific tier thereof) despair appropriate legal remedies and judicial protection of local autonomy is incomplete or even non-existent. The background of these shortcomings can be the perception of local governments as “parts of the wider state machinery” and the will to avoid litigations involving different parts of public administration as conflicting parties. Without judicial watchdogs and effective remedies, however, legal safeguards of local autonomy can prove to be empty words. Another problem is the inability of local government associations, in some countries, to stand trial in court on matters of local authorities.

81. Potential measures in order to address the aforementioned issues would be reforms of national legislations that should provide for judicial remedies of local authorities including special remedies against violations of local autonomy particularly in countries with constitutional courts that should be available to both local and regional self-governments. Finally, new legislation should grant associations of local governments full access to the judicial system and they should be allowed to represent interests of local governments before courts.

## 12. ARTICLE 12 – UNDERTAKINGS

### Article 12 – Undertakings

- 1 Each 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 10, paragraph 1,
  - Article 11.

82. In the course of this period of reference, the Congress pointed to a trend towards weakening the legal status of the European Charter of Local Government in the domestic legal system of member States and, particularly, the absence of direct applicability of its ratified provisions.

83. The Charter, as an international treaty, has legal force and should be directly applied in member States, each according to its legal tradition. Present practice indicates however that the Charter is not seen as a self-executing legal norm and this could also offer an explanation for the rare references of the Charter in court rulings in member States. Some highest courts have declared that the Charter, even though ratified by law, was not directly applicable, because its wording had been considered “too vague” to give rise to concrete rights and obligations recognised by domestic law. However, these States, by signing and ratifying this Convention, undertook a commitment to implement its provisions, and therefore no internal decision or specific legal interpretation could justify the non-compliance with its provisions.

84. In this regard, the Congress draws the attention of the national authorities to the fact that the relevant jurisprudence of the highest courts declaring the Charter as a directly non-applicable legal tool violates Article 12 paragraph 1, as each signatory country under this provision undertook the implementation of all articles of the Charter, with the exceptions of reservations they made at the time of signature and ratification and have maintained since then. The Congress has therefore recommended that national authorities ensure the direct applicability of the European Charter of Local Self-Government within their domestic legal systems.

### 13. CONCLUSION

85. Most countries are generally complying with the Charter. Local democracy seems to be facing problems in some younger democracies, while the most serious problems were found in countries where human rights are under threat, thus confirming once more the correlation between local autonomy and democratisation.

86. Most cases of violations or partial compliance were found in reports and recommendations concerning countries of the Caucasus area (that has been suffering from armed conflicts in previous years), in some successor states of the former Soviet union, but also in older democracies with strong centralist traditions and/or facing serious problems due to the financial crisis.

87. Of the different parts of the Charter, Article 9 is the one facing most problems, while the first two paragraphs are the least complied with. This is no surprise in view of the recent financial crisis, severely affecting many European countries. Recentralisation tendencies are, however, sometimes also connected to authoritarian tendencies and/or the will to instrumentalize grants and finance in order to subjugate local democracy to central government's will and priorities. In other cases, ongoing social developments (such as the demographic change in Europe) leading to growing costs of social services seem to enhance tendencies of central governments to allocate financial burdens at the cost of local authorities. The Congress therefore recommends the allocation of sufficient financial resources to local authorities, commensurate with their powers and responsibilities. This should be implemented, in particular, through revising legislation concerning fiscal decentralisation and developing or reviewing the criteria and formula of the equalisation mechanisms, on the basis of fiscal capacities and financial needs of communities. The Congress also called for the greater involvement of the local authorities or their representatives in financial matters, including the estimation of cost implications of any new State legislation that is to be implemented at local level.

88. Article 4 is the second most violated provision of the Charter, while paragraphs 4 and 5 are the least complied with. Decentralisation is facing setbacks in several countries, not only due to the crisis, but also do to policy choices of central governments sometimes preferring top-down approaches or even reflecting centralist tendencies emerging in some countries for the benefit of strong state administration and to the detriment of local and regional democracy. The Congress called on national authorities to clarify the areas of competence in line with the principle of subsidiarity so as to avoid ambiguity and overlapping of responsibilities. The definition of local competences shall strive to achieve clarification of the respective areas of competence of the different levels of governance without, however, limiting the local authority's scope of action and allowing them the discretion to develop and improve services

89. The Congress has asked national authorities to develop more institutionalised and legally guaranteed consultation mechanisms – within uniform time - so as allow local authorities and their representative associations to input into those decisions taken at State level which might limit the autonomy of territorial authorities. Paragraphs referring to consultation in various Articles (4, 5, 9) are often the subject of violations, since many governments are reluctant to open and transparent deliberation about their policy choices and priorities, in spite of the fact that successful implementation of policies is promoted through joint decision making procedures. The Congress also underlined the significant contribution that a unified national association of local authorities can make in discussions with the government on behalf of local governments or their local and regional associations.

90. Paternalistic attitudes towards local governments are also reflected in supervision practices (Article 8), restrictions on the right to associate (Article. 10), excessively detailed rules about local administration and local staff, or even concerning conditions of office for elective representatives where discouraging or even authoritarian attitudes were recorded, for instance as for salaries compensation. Such conditions adversely affect the representativity of local and regional councils and executives in terms of age and gender. Moreover, what was rather surprising, was the number of countries where legal protection of local self-government faces important shortcomings (sometimes it is the associations who are deprived of corresponding rights), even in countries with strong rule of law traditions. Furthermore, the legal status of the Charter in the domestic legal system of several countries makes some concern. Although the Charter, as an international treaty should have a legal force and a direct application, it is not seen as a self-executing legal norm by some highest Courts in Member States of the Council of Europe. However, these States, by signing and ratifying the Charter, undertook a commitment to implement its provisions, so they cannot refer to any internal decision or specific legal interpretation to justify the non-compliance with its provisions.

91. Finally, it is important to stress the need to elaborate more detailed criteria for monitoring reports and recommendations in order to achieve commonly used and accepted instruments of assessment that will not simply facilitate comparisons, but will also enhance the impact of monitoring reports and recommendations.

## **APPENDIX 1 – STATE OF RATIFICATIONS / DECLARATIONS ON THE EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT**

- *Albania* signed the European Charter of Local Self-Government (ECLSG) on 27 May 1998 and fully ratified it on 4 April 2000. In respect of that country, the Charter entered into force on 1<sup>st</sup> August 2000.
- *Andorra* signed the ECLSG on 27. October 2010 and ratified it on 23 March 2011. In respect of that country, the Charter entered into force on 1<sup>st</sup> July 2011. In accordance with Article 12, paragraph 2, of the Charter, the Principality of Andorra declares itself not bound by Article 9, paragraphs 2, 5 and 8.
- *Armenia* signed the ECLSG on 11. May 2001 and ratified it on 25 January 2002. In respect of that country, the Charter entered into force on 1. May 2002. Since its declaration dated 17 December 2015, Armenia is bound by all of the articles of the Charter.
- *Austria* signed the ECLSG on 15 October 1985 and ratified it on 23 September 1987. In respect of that country, the Charter entered into force on 1<sup>st</sup> September 1988. In accordance with Article 12 of the Charter, the Republic of Austria declares to consider herself not bound by Article 4, paragraphs 2, 3 and 5, Article 7, paragraph 2, Article 8, paragraph 2 and Article 11 of the Charter.
- *Azerbaijan* signed the ECLSG on 21 December 2001 and ratified it on 15 April 2002. The Charter entered into force in respect of Azerbaijan on 1 August 2002. In accordance with Article 12 of the Charter, Azerbaijan declared itself not to be bound by Articles 4.3, 7.2, 9.5, 9.6 and 10.3 of the Charter and formulated a declaration which reads as follows: "*The Republic of Azerbaijan declares that it is unable to guarantee the application of the provisions of the Charter in the territories occupied by the Republic of Armenia until these territories are liberated from that occupation*".
- *Belgium* signed the ECLSG on 15 November 1985 and ratified it on 25 August 2004. In respect of that country, the Charter entered into force on 1<sup>st</sup> December 2004. In accordance with Article 12 of the Charter, Belgium declared itself not to be bound by Articles 3.2, 8.2 and 9.2, 9.6 and 9.7. In accordance with Article 13 of the Charter, the Kingdom of Belgium stated that it intended to confine the scope of the Charter to the provinces and municipalities (communes). Pursuant to the same article, the provisions of the Charter do not apply to the social services centres (Centres publics d'aide sociale, CPAS) in the territory of the Brussels-Capital Region.
- *Bosnia and Herzegovina* signed and ratified the ECLSG on 12 July 2002 without reservations or declarations. In respect of that country, the Charter entered into force on 1<sup>st</sup> November 2002.
- *Bulgaria* signed the ECLSG on 3 October 1994 and ratified it on 10 May 1995. In respect of that country, the Charter entered into force on 1<sup>st</sup> September 1995. Since its declaration dated 7 August 2012, Bulgaria is bound by all of the articles of the Charter.
- *Croatia* signed and ratified the ECLSG on 11 October 1997. In respect of that country, the Charter entered into force on 19 September 1997. Since its declaration dated 24 June 2008, Croatia is bound by all of the articles of the Charter.
- *Cyprus* signed the ECLSG on 8 October 1986 and ratified it on 16 May 1988. In respect of that country, the Charter entered into force on 1<sup>st</sup> September 1988. Since its declaration dated 25 February 2003, Cyprus is bound by all of the articles of the Charter.
- *The Czech Republic* signed the ECLSG on 28 May 1998 and ratified it on 7 May 1999. In respect of that country, the Charter entered into force on 1<sup>st</sup> September 1999. In accordance with Article 12 of the Charter, the Czech Republic does not consider itself bound by Article 4, paragraph 5, Article 6, paragraph 2, Article 7, paragraph 2, Article 9, and paragraphs 3, 5 and 6. According to Recommendation 319 (2012), Articles 4 (paragraph 5) and 9 (paragraphs 3, 5 and 6) of the ECLSG are *de facto* operational, even though the Czech Republic has not ratified them.
- *Denmark* signed the ECLSG on 15 October 1985 and ratified it on 3 February 1988. In respect of that country, the Charter entered into force on 1<sup>st</sup> September 1988. Denmark ratified all the provisions of the Charter. In accordance with Articles 13 and 16 of the Charter, the Kingdom of Denmark considers by declaration dated 11 October 2007 that the provisions of the Charter shall apply to its municipalities ("kommuner") and by declaration contained in the instrument of acceptance, that the Charter shall not apply to Greenland and the Faroe Islands.

- *Estonia* signed the ECLSG on 04 November 1993 and ratified it on 16 December 1994. In respect of that country, the Charter entered into force on 1<sup>st</sup> April 1995. Estonia is bound by all of the articles of the Charter.
- *Finland* signed the ECLSG on 14 June 1990 and ratified it on 3 June 1991 without making any reservations or declarations restricting its scope. The Charter entered into force in Finland on 1 October 1991.
- *France* signed the ECLSG on 15 October 1985 and ratified it on 17 January 2007. In respect of that country, the Charter entered into force on 1<sup>st</sup> May 2007. In accordance with Article 12 of the Charter, France declared itself not to be bound by Article 7, paragraph 2 and stated that the provisions of Article 3, paragraph 2, must be interpreted as giving to the States the possibility to make the executive organ answerable to the deliberative organ of a territorial authority. The congress recommended France to consider ratifying Article 7, paragraph 2, of the Charter insofar as the relevant legislative provisions in force in France render the *de facto* situation consistent with the requirements of this article.
- *Georgia* signed the ECLSG on 26 October 2004 and ratified it on 8 December 2004. In respect of that country, the Charter entered into force on 1<sup>st</sup> April 2005. In accordance with Article 12 of the Charter, Georgia declared itself not to be bound by Article 4, paragraph 6, Article 5, Article 6, paragraph 2, Article 9, paragraph 6, and Article 10, paragraphs 2 and 3.
- *Germany* signed the ECLSG on 15 October 1985 and ratified it on 17 May 1988 with entry into force on 1<sup>st</sup> September 1988. By declaration dated 17 May 1988, Germany declared that the scope of Article 9, paragraph 3 do not apply to *Verbandsgemeinden* and *Kreise* in the *Land* Rhineland-Palatinate, while in the other *Länder*, the same provision do not apply to *Kreise*.
- *Greece* signed the ECLSG on 15 October 1985 and ratified it on 6 September 1989. The Charter entered into force in respect of Greece on 1 January 1990. Pursuant to Article 12, paragraph 2 of the Charter, Greece declared itself not to be bound by Article 5, Article 7, paragraph 2, Article 8, paragraph 2, and Article 10, paragraph 2, of the Charter. Article 2 of the Law 1850/1989 states that the European Charter of Local Self-Government applies only to the first tier of local government.
- *Hungary* signed the ECLSG on 6 April 1992 and ratified it on 21 March 1994, which came into force in respect of Hungary on 1 July 1994.
- *Iceland* signed the ECLSG on 20 November 1985 and ratified it on 25 March 1991. In respect of that country, the Charter entered into force on 1 July 1991. Iceland is bound by all of the articles of the Charter.
- *Ireland* signed the ECLSG on 7 November 1997 and ratified it on 14 May 2002 with a declaration pursuant to Article 13 to the effect that Ireland intends to confine the scope of the Charter to the following categories of authorities: county councils, city councils and town councils. In respect of that country, the Charter entered into force on 1<sup>st</sup> September 2002.
- *Italy* signed the European Charter of Local Self-Government on 15 October 1985 and ratified it on 11 May 1990. In respect of that country, the Charter entered into force on 1<sup>st</sup> September 1990. Italy is bound by all of the articles of the Charter.
- *Latvia* signed and ratified the ECLSG on 5 December 1996. The Charter came into force in Latvia on 1<sup>st</sup> April 1997. In accordance with Article 12 of the Charter and since its declaration dated 17 May 1999, Latvia is not bound by Article 9, paragraph 8, of the Charter.
- *Liechtenstein* signed the ECLSG on 15 October 1985 and ratified it on 11 May 1988. In respect of that country, the Charter entered into force on 1<sup>st</sup> September 1988. In accordance with Article 12 of the Charter, Liechtenstein declared not to be bound by Articles 3.2; 6.2; 7.2; 9, paragraphs 3, 4 and 8.
- *Lithuania* signed the ECLSG on 27 November 1996 and ratified it without reservation on 22 June 1999. In respect of that country, the Charter entered into force on 1<sup>st</sup> October 1999. Lithuania is bound by all of the articles of the Charter.

- *Luxembourg* signed the ECLSG on 15 October 1985 and ratified it on 15 May 1987. In respect of that country, the Charter entered into force on 1<sup>st</sup> September 1988. Luxembourg is bound by all of the articles of the Charter.

- *Malta* signed the ECLSG on 13 July 1993 and ratified it on 6 September 1993. In respect of that country, the Charter entered into force on 1<sup>st</sup> September 1994. In accordance with Article 12 of the Charter, and since its declaration dated 2 August 2010, Malta is not bound by Article 9 paragraph 3 of the Charter.

- The *Republic of Moldova* signed the ECLSG on 2 May 1996 and ratified it on 2 October 1997 without any reservations. In respect of that country, the Charter entered into force on 1<sup>st</sup> February 1998. The Republic of Moldova is bound by all of the articles of the Charter.

- *Monaco* signed and ratified the ECLSG on 10 January 2013. In respect of that country, the Charter entered into force on 1<sup>st</sup> May 2013. In accordance with Article 12 of the Charter, Monaco declared not to be bound by Articles 3.1; 4.3; 7.2; 8.3; 9 paragraphs 1, 2, 3, 4 and 8; and 10.2.

- *Montenegro* signed the ECLSG on 24 June 2005 and ratified it on 12 September 2008. In respect of that country, the Charter entered into force on 1<sup>st</sup> January 2009. In accordance with Article 12 of the Charter, Montenegro declared not to be bound by Articles 4.3; 4.5; 6.2; 7.2; 8.2 and 8.3.

- The *Kingdom of the Netherlands* signed the ECLSG on 7 January 1988 and ratified it on 20 March 1991. The Charter entered into force with respect to the Netherlands on 1<sup>st</sup> July 1991. In accordance with Article 12 of the Charter, the Netherlands do not consider themselves bound by the provisions of Article 7, paragraph 2; Article 8, paragraph 2; Article 9, paragraph 5; and Article 11 of the Charter. Moreover, and in accordance with Article 13 of the Charter, the Netherlands declared that it intended to confine the scope of the Charter to provinces and municipalities and that the Charter would only apply to the Netherlands' territory in Europe (on the grounds of Article 16 of the Charter). In 2014, Dutch authorities said they would be ready to consider the pertinence of ratifying some of the provisions not accepted at the time of ratification of the Charter.

- *Norway* signed and ratified the ECLSG on 26 May 1989. The Charter entered into force in respect of Norway on 1<sup>st</sup> September 1989. Norway is bound by all of the articles of the Charter.

- *Poland* signed the ECLSG on 19 February 1993 and ratified it on 22 November 1993. The Charter entered into force in respect of Poland on 1<sup>st</sup> March 1994. Poland is bound by all of the articles of the Charter.

- *Portugal* signed the ECLSG on 15 October 1985 and ratified it on 18 December 1990 without declarations or reservations. The Charter entered into force in respect of Portugal on 1 April 1991. Portugal is bound by all of the articles of the Charter.

- *Romania* signed the ECLSG on 4 October 1994 and ratified it on 28 January 1998. In respect of that country, the Charter entered into force on 1<sup>st</sup> May 1998. In accordance with Article 12 of the Charter, Romania declared not to be bound by Article 7 paragraph 2 and issued an interpretative declaration regarding Article 4 paragraph 4 and 5 of the Charter. The Congress asked Romania to consider withdrawing its declaration related to Article 7.2, since the Romanian legislation concerning this matter seems *de facto* to be in compliance with this provision of the Charter.

- The *Russian Federation* signed the ECLSG on 28/02/1996 and ratified it on 05 May 1998. In respect of that country, the Charter entered into force on 1<sup>st</sup> September 1998. As the Russian Federation has not issued any declaration in accordance with Article 12 nor Article 13, it is bound by all the provisions of the Charter.

- *San Marino* signed the ECLSG on 16. May 2013 and ratified it on 29 October 2013. The Charter entered into force in respect of that country on 1<sup>st</sup> February 2014. In accordance with Article 12 of the Charter, San Marino declared not to be bound by Article 9, paragraphs 3 and 8.

- *Serbia* signed the ESLSG on 24 June 2005 and ratified it on 6 September 2007. The Charter came into force in respect of Serbia on 1 January 2008. In accordance with Article 12 of the Charter, the Republic of Serbia declared not to be bound by Article 4, paragraphs 3 and 5, Article 6, Article 7, paragraph 2 and Article 8, paragraph 3 of the Charter. In 2011, Serbian authorities were asked to withdraw its declaration, formulated by Serbia at the time of its ratification of the European Charter of

Local Self-Government, on the articles of the Charter dealing with the principle of subsidiarity (Article 4, paragraph 3) and the principle of proportionality in administrative supervision (Article 8.3).

- *Slovakia* signed the ECLSG on 23 February 1999 and ratified it on 1 February 2000. In respect of that country, the Charter entered into force on 1<sup>st</sup> June 2000. Following pertinent Congress Recommendation, and since its declaration dated 21 May 2007, the Slovak Republic is bound by all the provisions of the Charter.

- *Slovenia* signed the ECLSG on 11 October 1994 and ratified it on 15 November 1996 with a commitment to observe all the provisions. In respect of that country, the Charter entered into force on 1<sup>st</sup> March 1997.

- *Spain* signed the ECLSG on 15 October 1985 and ratified it on 3 February 1988. The Charter entered into force in respect of Spain on 1<sup>st</sup> September 1988. Spain has declared itself not to be bound by Articles 3.2 of the Charter to the extent that the system of direct suffrage foreseen therein should be implemented in all local authorities falling within the scope of the Charter. Moreover, Spain declared that the ECLSG shall apply to the whole national territory as far as the authorities regulated by the Spanish law on local authorities and foreseen in Articles 140 and 141 of the Constitution are concerned.

- *Sweden* signed the ECLSG on 4 October 1988 and ratified it on 29 August 1989 with a declaration issued in accordance with Article 13 that the Charter will be implemented in municipalities (*Kommuner*) and in Provincial Councils (*Landstings*). In respect of that country, the Charter entered into force on 1<sup>st</sup> December 1989. Sweden is bound by all the provisions of the Charter.

- *Switzerland* signed the ECLSG on 21 January 2004 and ratified it on 17 February 2005. In respect of that country, the Charter entered into force on 1<sup>st</sup> June 2005. In accordance with Article 12, Switzerland is not bound by Article 4, paragraph 4, Article 6, paragraph 2, Article 7, paragraph 2, Article 8, paragraph 2 and Article 9, paragraph 5. Pursuant to Article 13, in Switzerland the Charter applies only to the "political communes" (the first tier of local government).

- "*the former Yugoslav Republic of Macedonia*" (FYROM) signed the ECLSG on 14 June 1996 and ratified it on 6 June 1997 without making any declarations upon the deposit of the instrument of ratification. The Charter entered into force in respect of that country on 1<sup>st</sup> October 1997;

- *Turkey* signed the ECLSG on 21 November 1988 and ratified it on 9 December 1992. In respect of that country, the Charter entered into force on 1<sup>st</sup> April 1993. In accordance with Article 12, Turkey declared not to be bound by Articles 4.6; 6.1; 7.3; 8.3; 9 paragraphs 4, 6 and 7; 10, paragraphs 2 and 3; 11.

- *Ukraine* signed the ECLSG on 6 November 1996 and ratified it on 11 September 1997. In respect of that country, the Charter entered into force on 1<sup>st</sup> January 1998. Ukraine is bound by all the provisions of the Charter.

- The *United Kingdom* signed the ECLSG on 3 June 1997 and ratified it on 24 April 1998. In respect of that country, the Charter entered into force on 1<sup>st</sup> August 1998. Pursuant to Article 13, the United Kingdom declared that it intends to confine the scope of the Charter to the following categories of authorities: In England, county councils, district councils and London borough councils and the Council of the Isles of Scilly; in Wales, to all councils constituted under Section 2 of the Local Government (Wales) Act 1994 and in Scotland, to all councils constituted under Section 2 of the Local Government (Scotland) Act 1994. With respect to the whole Charter, the United Kingdom issued an interpretative declaration according to this it understands the term "local authority" in the Charter does not include local or regional bodies such as police authorities which, by reason of the specialist functions for which they are responsible, are composed of both elected and appointed members.

## **APPENDIX 2 - ADDITIONAL PROTOCOL TO THE EUROPEAN CHARTER ON THE RIGHT TO PARTICIPATE IN THE AFFAIRS OF A LOCAL AUTHORITY (ETS No. 207)**

*Following a recommendation, Albania* signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) on 30 May 2016 but has not yet ratified it.

*Armenia* ratified the Additional Protocol to the Charter on the right to participate in the affairs of a local authority (CETS No. 207) on 13 May 2013 with entry into force on 1<sup>st</sup> September 2013 and a new legislation was adopted immediately after with the aim of strengthening citizens' participation in local government.

*Belgium* signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) on 16 November 2009 but has not yet ratified it.

*Bulgaria* signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) on 11 May 2012 and ratified it on 14 March 2016. In respect of that country, the Additional Protocol entered into force on 1<sup>st</sup> July 2016.

*Cyprus* signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) on 16 May 2011 and ratified it on 28 September 2012. In respect of that country, the Additional Protocol entered into force on 1<sup>st</sup> January 2013. Pursuant to Article 3 of the Additional Protocol, Cyprus issued a declaration stating that the rights under the said Protocol shall be available in relation to Cypriot Municipalities and Communities as defined, created and functioning respectively under the erstwhile relevant Laws of the Republic, i.e. the Law on Municipalities and the Law on Communities.

*Estonia* signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) on 16 November 2009 and ratified it on 20 April 2011. In respect of that country, the Additional Protocol entered into force on 1<sup>st</sup> June 2012.

*Finland* signed the Additional Protocol to the European Charter of local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) on 16 November 2009 and ratified it on 10 February 2012. In respect of that country, the Additional Protocol entered into force on 1<sup>st</sup> June 2012.

*France* signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS no. 207) on 16 November 2009 but has not yet ratified it.

*Hungary* signed the Additional Protocol to the European Charter on Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) on 16 November 2009 and ratified it on 7 June 2010. In respect of that country, the Additional Protocol entered into force on 1<sup>st</sup> June 2012.

*Iceland* signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) on 18 November 2009 but has not yet ratified it.

*Lithuania* signed the Additional Protocol to the European Charter on Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) on 16 November 2009 and ratified it on 26 July 2012. In respect of that country, the Additional Protocol entered into force on 1<sup>st</sup> November 2012.

*Montenegro* signed the Additional Protocol to the European Charter on Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) on 16 November 2009 and ratified it on 1<sup>st</sup> October 2010. In respect of that country, the Additional Protocol entered into force on 1<sup>st</sup> June 2012

*The Netherlands* signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) on 16 November 2009 and

ratified it on 13 December 2010 with entry into force on 1<sup>st</sup> June 2012. In accordance with Article 4, paragraph 1, of the Additional Protocol, the Netherlands declared that it accepts the said Protocol for the Kingdom in Europe.

*Norway* signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) on 16 November 2009 and ratified it on 16 December 2009. In respect of that country, the Additional Protocol entered into force on 1<sup>st</sup> June 2012. Pursuant to Article 4, paragraph 1, of the Additional Protocol, the Government of Norway declares that the Protocol shall not apply to the territory of Svalbard.

*Portugal* signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) on 26 May 2005 but has not yet ratified it.

*Slovenia* signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) on 16 November 2009 and ratified it on 6 September 2011. In respect of that country, the Additional Protocol entered into force on 1<sup>st</sup> June 2012.

*Sweden* signed and ratified the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) on 5 May 2010 with entry into force on 1<sup>st</sup> June 2012.

The "*Former Yugoslav Republic of Macedonia*" (*FYROM*) signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) on 21 November 2013 and ratified it on 30 September 2015, with entry into force on 1<sup>st</sup> January 2016.

*Ukraine* signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) on 20 October 2011 and ratified it on 16 December 2014. In respect of that country, the Additional Protocol entered into force on 1<sup>st</sup> April 2015.

The *United Kingdom* signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) on 16 November 2009 but has not yet ratified it.

# APPENDIX 3 – Reservations and Declarations to the European Charter of Local Self- Government (ETS No.122)

## Reservations and Declarations for European Charter of Local Self-Government (Treaty No.122) Global Overview

Status as of 10/10/2016

Committee Monitoring

COUNTRIES	Articles Ratified date	Articles																											Number of ratified provisions	Number of non-ratified provisions	Number of conditional ratifications				
		2	3.1	3.2	4.1	4.2	4.3	4.4	4.5	4.6	5	6.1	6.2	7.1	7.2	7.3	8.1	8.2	8.3	9.1	9.2	9.3	9.4	9.5	9.6	9.7	9.8	10.1				10.2	10.3	11	
ALBANIA	04/04/2000																																30	0	0
ANDORRA	23/03/2011																																27	3	0
ARMENIA	25/01/2002																																30	0	0
AUSTRIA	23/09/1987																																24	6	0
AZERBAIJAN**	15/04/2002																																26	4	0
BELGIUM	25/08/2004																																25	5	0
BOSNIA AND HERZEGOVINA	12/07/2002																																30	0	0
BULGARIA	10/05/1995																																30	0	0
CROATIA	11/10/1997																																30	0	0
CYPRUS	16/05/1988																																29	1	0
CZECH REPUBLIC	07/05/1999																																24	6	0
DENMARK*	03/02/1988																																30	0	0
ESTONIA	16/12/1994																																30	0	0
FINLAND	03/06/1991																																30	0	0
FRANCE*	17/01/2007																																28	1	1
GEORGIA**	08/12/2004																																24	6	0
GERMANY*	17/05/1988																																29	1	0
GREECE	06/09/1989																																26	4	0
HUNGARY	21/03/1994																																30	0	0
ICELAND	25/03/1991																																30	0	0
IRELAND*	14/05/2002																																30	0	0
ITALY	11/05/1990																																30	0	0
LATVIA	05/12/1996																																29	1	0
LIECHTENSTEIN	11/05/1988																																22	8	0
LITHUANIA	22/06/1999																																30	0	0
LUXEMBOURG	15/05/1987																																30	0	0
MALTA	06/09/1993																																29	1	0
MONACO	10/01/2013																																20	10	0
MONTENEGRO	12/09/2008																																24	6	0
NETHERLANDS*	20/03/1991																																25	4	1
NORWAY	26/05/1989																																30	0	0
POLAND	22/11/1993																																30	0	0
PORTUGAL	18/12/1990																																30	0	0
REPUBLIC OF MOLDOVA	02/10/1997																																30	0	0
ROMANIA	28/01/1998																																27	1	2
RUSSIAN FEDERATION	05/05/1998																																30	0	0
SAN MARINO	29/10/2013																																28	2	0
SERBIA	06/09/2007																																24	6	0
SLOVAK REPUBLIC	01/02/2000																																30	0	0
SLOVENIA	15/11/1996																																30	0	0
SPAIN*	08/11/1988																																29	1	0
SWEDEN*	29/08/1989																																30	0	0
SWITZERLAND	17/02/2005																																24	6	0
THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA	06/06/1997																																30	0	0
TURKEY	09/12/1992																																20	10	0
UKRAINE	11/09/1997																																30	0	0
UNITED KINGDOM*	24/04/1998																																30	0	0

Number of ratified provisions per article	30	29	26	30	29	25	28	25	28	28	28	23	30	17	29	30	24	26	29	27	24	27	25	25	25	25	30	25	25	27
Number of non-ratified provisions per article	0	1	3	0	1	5	1	4	2	2	2	6	0	13	1	0	6	4	1	3	6	3	5	5	5	5	0	5	5	3
Number of conditional ratifications per article	0	0	1	0	0	0	1	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0