

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Recommendation 397 (2017)¹ Fact-finding mission on the situation of local elected representatives in Turkey

1. On 8 February 2016, the Bureau of the Congress of Local and Regional Authorities of the Council of Europe asked its co-rapporteurs on Turkey to carry out a fact-finding mission to investigate the situation of local elected representatives in south-east Turkey, in view of the increasing number of arrests, detentions and removals from office of elected mayors and municipal councillors.

2. The co-rapporteurs particularly wished to evaluate whether these developments affected Turkey's commitments under the European Charter of Local Self-Government (ETS No. 122, hereinafter "the Charter"), which it ratified on 9 December 1992, and which entered into force on 1 April 1993.

3. Due to events in Turkey, including the attempted coup of 15 July 2016, the co-rapporteurs did not complete their mission until December 2016, when they held a series of meetings in Ankara, Istanbul and Diyarbakir. At all stages of the process they enjoyed excellent co-operation with and support from the Turkish authorities and they wish to thank these authorities for this help and support and for their willingness to engage in dialogue with the Congress.

4. The Congress is well aware of the difficulties that Turkey is facing, including threats to its stability, an increase in terror attacks, the attempted coup, several million refugees within its territory and war on its borders.

5. The Congress categorically condemns all forms of terrorism and violent extremism. Nobody can deny that Turkey needs to take adequate and proportionate measures to protect itself and its institutions.

6. The Congress has set the fight against violent extremism as a priority activity and is convinced that local authorities have a unique and key role to play in this respect and that the healthy functioning of local democracy is an essential tool with which to combat these threats.

7. The Congress:

a. is concerned that the arrest and removal from office of many local elected representatives seriously risk damaging pluralist democracy at the local level and gravely weakening political parties and civil society;

b. believes that the large-scale detention and arrest of local elected representatives and the extensive resort to lengthy remand detentions, within the framework of the fight against terrorism, are counterproductive and are weakening the

capacity of Turkey to deal with the terrorist threats that it is facing;

c. observes that most of the arrests of local elected representatives have been made on the basis of accusations of terrorism, the definition of which has been criticised by Council of Europe bodies, the European Union and other international organisations, and is not in conformity with the practice of most Council of Europe member States;

d. notes that the use of the Turkish Anti-Terrorism Law No. 3713 of 12 April 1991, principally with regard to declarations and opinions expressed by the local elected representatives concerned, is having a negative impact on political pluralism and the exercise of local democracy in Turkey;

e. considers that the practice in most European States, including Turkey prior to September 2016, whereby elected mayors who are legitimately removed from office are replaced by a new mayor elected by the municipal council, is a sufficient safeguard against unlawful activity and deserves to be retained;

f. believes that Emergency Decree No. 674, introduced on 1 September 2016 within the framework of the State of Emergency under Article 121 paragraph 3, of the Turkish Constitution, to enable the central authorities to appoint "unelected mayors" and place elected mayors under investigation, is incompatible with Turkey's commitments as a party to the Charter, notably Article 3, according to which local self-government should be carried out under the authority of councils or assemblies elected freely by secret ballot;

g. notes that the detentions of elected mayors and their replacement by "mayors appointed by the central authorities" in 82 municipalities in south-east Turkey has effectively suspended the practical exercise of local democracy in that region, with most municipal councils of those cities ceasing to function, and with almost 6 million Turkish citizens being deprived of political representation at the local level, which constitutes a contravention of Article 7, paragraph 1, of the Charter (the free exercise of their functions by local elected representatives);

h. believes that the transfer of the powers and responsibilities of these municipal councils to "mayors appointed by the central authorities" amounts to a disproportionate form of administrative supervision, in violation of Article 8, paragraph 3, of the Charter;

i. is alarmed at reports that the system of appointing co-mayors has been declared illegal and that the designation of co-mayors is in itself considered to be a criminal act, by virtue of the letter of 11 November 2016 sent by the minister of the interior to governors;

j. is concerned at the progressive reduction in local public services, and in particular the closure of women's shelters and other services for women, children and families at risk. Such reductions in the services offered to citizens constitute a violation of Articles 4, paragraph 4, (full and exclusive powers for local authorities) and 9, paragraph 1, (right of

local authorities to have adequate financial resources of which they may dispose freely) of the Charter.

8. In the light of the above, the Congress asks the Committee of Ministers to invite the Turkish authorities to:

a. rescind the legislative measures on “mayors appointed by the central authorities” and restore the capacity of the municipal councils concerned to choose a replacement mayor, if the mayor is removed from office;

b. ensure that the arrest of a local elected representative is a measure duly substantiated in domestic law, taken in conformity with the standards of the Council of Europe;

c. examine, with a view to their release, the situation of local elected representatives currently in pre-trial detention in order to ensure that it is in conformity with the European Convention on Human Rights (ETS No. 5), and, where appropriate, proceed with their immediate release;

d. revise the ministerial instructions of 11 November 2016 with a view to decriminalising the appointment of co-mayors;

e. revise Turkish legislation to align its definition of terrorism with European standards, notably the case law of the European Court of Human Rights;

f. take appropriate measures to ensure that Congress members and Turkish members of the Group of Independent Experts on the European Charter of Local Self-Government are free to carry out their work and can circulate freely for this purpose.

1. Debated and adopted by the Congress on 29 March 2017, 2nd sitting (see Document [CG32\(2017\)13](#), explanatory memorandum), rapporteurs: Anders KNAPE, Sweden (L, EPP/CCE), and Leendert VERBEEK, Netherlands (R, SOC).