

Speech for Minister Renata Szczęch

**to be delivered during the 36th session of the Congress of Local and Regional Authorities of the Council of Europe on 2 April 2019
concerning the *Local and regional democracy in Poland* report**

The Polish side has read the draft report. A number of statements in the draft, as well as most of the proposed conclusions, are questionable. At the same time, despite the comments, facts and evidence presented by the Polish side in 2018, the draft report – which does not present any facts or evidence – still contains very critical and unjustified conclusions.

The current draft of the report provides a negative assessment of the processes and solutions observed in the activities of self-government, which were not assessed negatively in 2015. The Polish side has demonstrated it clearly and without doubt in its positions of 2018 and 2019. Despite clear evidence against most of the arguments, or against the overly critical and one-sided nature thereof, they have been left virtually unchanged as compared to the original version of the draft report of 2018.

Given the evidential value of the theses presented in the draft report which have not been confronted with the facts and evidence provided by the Polish side, we cannot accord with the contents of most recommendations.

The draft report fails to provide for the context of Poland's political system and the function of Polish self-governments which are on the front line of responsibility for implementing the services and benefits of the so-called welfare state, which must conform to a unified minimum standard and be generally available nationwide.

Consequently, the presented draft report should take into account the fact that Poland is one of the most de-centralised member states of the Council of Europe, and that the local authorities are the foundation of implementing the principles of welfare state, particularly in the fields such as education, nursery care, family benefits, social assistance and healthcare. This is reflected in the size of the self-government sector, i.e. the funding allocated to the sector under the applicable laws. The self-governments are responsible for most public services, such as schools, kindergartens, welfare centres, hospitals and healthcare facilities. The importance of the welfare provision function becomes evident when it is illustrated by the spending allocated in the budgets of self-governments (municipalities, cities with district rights, and districts) for those areas.

The public tasks related to implementing welfare state must conform to unified minimum standards (in terms of access to and the quality of services) nationwide. In a modern state, those matters, as the implementation of the citizens' positive rights, must be regulated on a central level, rather than remain the sole competence of the self-governments. It is obvious not only for Poland, but also other member states of the Council of Europe.

The authors of the draft report have based their diagnosis and conclusion almost exclusively on the opinions of the representatives of the self-government who met with the delegation of the Congress of Local and Regional Authorities. Those opinions are backed by very little evidence. Furthermore, some of the evidence is of very low quality. In the Polish side's opinion, the local officials who met with the delegation of the Congress are not representative of the Polish self-governments. The selection of local authority stakeholders for the meetings was biased. This made it impossible to present different perspectives on the discussed matters. Moreover, the draft report contains a number of very strong and unequivocal statements which find no confirmation in the available evidence. The weak and selective arguments affect the accuracy of the draft report's conclusions. Most of the arguments should be re-examined.

The draft document acknowledges the ongoing political dispute in Poland and the fact the sides of the dispute are represented in self-governments and the central government. The dispute may affect the current image of the relations between the self-government and the central government, and the matters related to the self-government competences and operations.

The document was drafted using qualitative research methods, i.e. conversations during meetings. Drawing up the agenda and choosing the participants of the meetings during the visit between 5 and 7 June 2018, the organisers should have taken more care to ensure the appropriate political representation of the self-governments.

Since the delegates met with the representatives of only some of the political parties active in the self-governments, and with the representatives of self-government associations primarily related to those political parties, it would seem prudent to exercise much more care in the draft report when citing the opinions of the self-government officials (as the primary source of empirical data) and formulating any conclusions on the basis thereof. The conclusions provided in the document are very strong and unequivocal. The Polish side believes that meetings with a broader representation of councilpersons and self-government executives would have made it possible to formulate much more balanced and accurate conclusions.

The choice of the sample of the local self-governments, with whom the meetings were organized on 5-7 June 2018, is questionable. The selected self-governments included two of the largest Polish cities (Łódź, Warsaw) and only one municipality (Nowosolna), even though the majority of the 2.5 thousand local self-governments in Poland qualify as small. The sample was thus not representative for the Polish self-government on the municipalities level. This was also noted by the delegates themselves in their remarks on the characteristics of the Polish self-government at the municipalities level.

The negative assessment of conformity with specific provisions of the European Charter of Local Self-government (ECLS) in the draft reports is mostly based on the arguments related to the voivodeships, i.e. the regional authorities. It should be pointed out that those authorities are not equivalent to the self-governments to which the ECLS applies. ECLS applies to local self-governments. In the case of Poland, this includes municipalities, cities with district rights and districts. However, the delegation based their assessment of conformity with specific provisions of the ECLS on the opinions concerning the voivodeships. In the Polish side's opinion, this approach is questionable. The cited paragraphs were used as arguments for the negative assessment of Poland's conformity with Article 3(1) and Article 4(3) of the ECLS. Nevertheless, the Polish side will not evade providing additional clarification on the changes concerning the regional self-government, in order to help the delegation understand their purpose and role.

Contrary to the draft report, the general scope of task and competences of the self-governments remains largely unchanged, as does the scope of public funds for which those authorities are responsible. The Polish self-government has a strong and unquestionable position in the Polish government system.

The draft report provides an overly critical and unsubstantiated – as it is based solely on the opinions of the self-government officials – statement that Poland only partially conforms to Article 9(1) and (2), and fails to conform to Article 9(3), (4) and (6) of the ECLS, i.e. violates the majority of the provisions related to the financial system of the self-governments. However, the authors' statement is not based on solid data. Among others, the draft report ignores the basic information on the financial condition of the local self-governments.

It should be emphasised that the process of de-centralisation and democratisation in Poland has not been and is not under any threat, and good practices based on cooperation and dialogue remain the foundation of the work of the Joint Central Government and Local Government Committee, as evidenced herein.

Therefore, the Congress of Local and Regional Authorities' concern, particularly for the level of autonomy and independence of the self-government, and the alleged restriction of their rights, abusing the supervisory rights, delegating responsibilities to self-governments without providing the necessary funding, and restricting the self-governments' rights to legal protection, as set forth in the draft recommendations, is unsubstantiated and unjustified.

Having presented the above information, we would like to request that the appropriate corrections be made to the draft report. It is important for the Polish side that the opinions and conclusions provided therein, particularly the strong and unequivocal ones, be supported by solid evidence. This expectation applies to all conclusions, regardless of whether they are critical towards Poland or not. We would also like for the document to be as representative as possible in terms of case studies and the opinions of stakeholders or self-government units.

To that end, we are open to further discussion on the Polish self-government, based on facts and evidence. Due to the large number of comments, we would like to extend an invitation to the Council of Europe for a supplementary visit to Poland. The visit would give us an opportunity to discuss in detail the contents of the draft report. We are aware that the brief visit in June 2018 might have made it difficult to reach all interested parties or to acquire all relevant data.