

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Resolution 479 (2022)¹ Monitoring of the application of the European Charter of Local Self-Government in Turkey

1. The Congress of Local and Regional Authorities of the Council of Europe (hereinafter “the Congress”) refers to:

a. Article 2, paragraph 1.*b.*, of the Charter of the Congress of Local and Regional Authorities of the Council of Europe, appended to Statutory Resolution CM/Res(2020)1, stipulating that one of the aims of the Congress is “to submit proposals to the Committee of Ministers in order to promote local and regional democracy”;

b. Article 1, paragraph 2, of the Charter of the Congress of Local and Regional Authorities of the Council of Europe, appended to Statutory Resolution CM/Res(2020)1, stipulating that “[t]he Congress shall prepare on a regular basis country-by-country reports on the situation of local and regional democracy in all member States and in States which have applied to join the Council of Europe, and shall ensure the effective implementation of the principles of the European Charter of Local Self-Government”.

c. Chapter XVIII of the Rules and Procedures of the Congress on the organisation of monitoring procedures;

d. Congress Recommendation 301 (2011) on local and regional democracy in Turkey;

e. Congress Resolution 416 (2017) and Recommendation 397 (2017) on the fact-finding mission on the situation of local elected representatives in Turkey;

f. Congress Resolution 450 (2019) and Recommendation 439 (2019) on local elections in Turkey and mayoral re-run in Istanbul (31 March and 23 June 2019);

g. the explanatory memorandum to the present recommendation on the monitoring of the application of the European Charter of Local Self-Government in Turkey;

h. the contemporary commentary on the explanatory report to the European Charter of Local Self-Government adopted by the Congress Statutory Forum on 7 December 2020;

i. the European Commission for Democracy Through Law (Venice Commission) opinion on the replacement of elected candidates and mayors in Turkey (CDL-AD(2020)011).

2. The Congress points out that:

a. Turkey signed the European Charter of Local Self-Government (ETS No. 122, hereinafter “the Charter”) on 21 November 1988 and ratified it on 9 December 1992, with entry into force on 1 April 1993. In the course of ratification, Turkey declared itself not bound by Articles 4.6, 6.1, 7.3, 8.3, 9.4, 9.6, 9.7, 10.2, 10.3 and 11;

b. the Committee on the Honouring of Obligations and Commitments by Member States of the European Charter of Local Self-Government (hereinafter referred to as “the Monitoring Committee”) instructed Mr Jakob Wienen (Netherlands, EPP/CCE) as rapporteur on local democracy, and Ms Yoomi Renström (Sweden, SOC/G/PD) as rapporteur on regional democracy, to prepare and submit a report on the monitoring of the European Charter of Local Self-Government in Turkey to the Congress. A two-part visit to Turkey was carried out by the Congress delegation, which was assisted by Professor Angel M. Moreno, President of the Group of Independent Experts on the Charter, and the Congress secretariat;

c. the monitoring visit took place from 1 to 4 October 2019 (first part of the visit) and from 11 to 13 November 2019 (second part of the visit). The report was adopted by the Monitoring Committee in February 2020. The draft recommendation and resolution could not be adopted by the Congress session due to the Covid-19 pandemic. In the meantime, both rapporteurs have left the Congress. Therefore, the Monitoring Committee appointed Vladimir Prebilič, Slovenia (L, SOC/G/PD), and David Eray, Switzerland (R, EPP/CCE), and instructed them to update the explanatory memorandum before its submission to the Congress at one of its sessions in 2022. To this end, a third part of the monitoring visit took place on 1 December 2021. In Turkey, the Congress delegations met representatives of various institutions at all levels of government, as well as leaders of main national parties, non-governmental organisations and foreign diplomatic representatives. The detailed programmes of the three parts of the visit are appended to the current explanatory report;

d. the co-rapporteurs wish to thank the Permanent Representation of the Republic of Turkey to the Council of Europe and all those whom they met during the visits for the information they provided and comments they made.

3. The Congress reiterates that member States of the Council of Europe that have signed and ratified the Charter have undertaken to comply with its provisions.

4. The Congress expresses concern regarding:

a. the limited progress in implementing Congress Recommendation 397 (2017) on the fact-finding mission on the situation of local elected representatives in Turkey. The government continues to suspend mayors when a criminal investigation is opened against them (Article 7.1 of the Charter), on the grounds of an overly broad definition of “terrorism” in the anti-terror legislation, and to replace them by non-elected officials (Article 3.2) thus seriously undermining the democratic choice of Turkish citizens and impeding the proper functioning of local democracy in Turkey;

1. Debated and adopted by the Congress on 23 March 2022, 2nd sitting (see Document CG(2022)42-14, explanatory memorandum), co-rapporteurs: Vladimir PREBILIC, Slovenia (L, SOC/G/PD), and David ERAY, Switzerland (R, EPP/CCE).

b. the refusal of certain provincial electoral administrations, in violation of the principle of fairness in elections, to grant to several candidates who won the mayoral elections in some municipalities located in the south-east of Turkey the required certificate of elections (*mazbata*) which is a prerequisite for entering the position of mayor (Article 3.2);

c. the governor's double function as a State agent and a chairman of the provincial executive committee which does not permit the necessary separation between the State and the local administration contrary to the spirit of the Charter (Article 3.2);

d. administrative tutelage over the activities and decisions of local authorities is still enshrined in the constitution and applied in practice; the State overregulation and interventionism in planning decisions of local authorities take the form of an efficiency control over the tasks and responsibilities of local authorities and limit their capacity to enjoy full and exclusive powers (Articles 4.4 and 8.2);

e. the lack of consultation of affected local authorities during the boundary changes enacted by legislation (Article 5) which also reflects the unsatisfactory level of communication and intergovernmental dialogue between the central government and local authorities in Turkey in general;

f. the limited capacity local governments have to determine the rate of local taxes (Article 9.3); a substantial proportion of local revenues (more than half) still comes from the State budget which generally limits the financial autonomy enjoyed by local authorities;

g. the additional pressures faced by local authorities in the southeast of the country in delivering basic services such as housing, food and sanitation due to an unprecedented influx of refugees and asylum seekers.

5. In the light of the foregoing, the Congress:

a. undertakes to strengthen its political dialogue with the Turkish national authorities as well as with the national delegation to the Congress and the Union of Municipalities of Turkey (UMT) with the aim of improving the situation of local democracy in the country in the light of the provisions of the Charter;

b. invites the rapporteurs to update the Monitoring Committee regularly during its meetings on the latest developments as regards local and regional government in Turkey and, in particular, as regards the shortcomings identified in the recommendation and its explanatory memorandum.