

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Recommendation 316 (2011)¹ Local and regional democracy in Serbia

1. The Congress of Local and Regional Authorities of the Council of Europe refers to:

a. Article 2, paragraph 1.*b* of the Statutory Resolution CM/Res(2011)2 of the Committee of Ministers relating to the Congress of Local and Regional Authorities of the Council of Europe, which provides that one of the aims of the Congress shall be “to submit proposals to the Committee of Ministers in order to promote local and regional democracy”;

b. Article 2, paragraph 3 of the above-mentioned Statutory Resolution CM/Res(2011)2, stipulating that “the 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, in particular, that the principles of the European Charter of Local Self-Government (hereinafter “the Charter”) are implemented”;

c. its Resolution 299 (2010) on the follow-up by the Congress of the Council of Europe Conference of Ministers responsible for Local and Regional Government (Utrecht, Netherlands, 16-17 November 2009), which states that the Congress will use the Council of Europe Reference Framework for Regional Democracy (MCL-16(2009)11) in its monitoring activities, as well as the reply made by the Committee of Ministers to Congress Recommendation 282 (2010) (CM/Cong(2011)Rec282 final) encouraging the governments of member states to take account of the above-mentioned reference framework in connection with their policies and reforms;

d. the explanatory memorandum to this recommendation on local and regional democracy in Serbia.

2. The Congress recalls that:

a. Serbia and Montenegro joined the Council of Europe on 3 April 2003. Following the declaration of independence of the Republic of Montenegro on 3 June 2006, and in accordance with Article 60 of the Constitutional Charter of the State Union of Serbia and Montenegro, the Committee of Ministers of the Council of Europe adopted at their 967th meeting a declaration on the continuation of Serbia’s membership in the Council of Europe and the continuation of ensuring obligations and commitments;

b. Serbia signed the European Charter of Local Self-Government (ETS No. 122) on 24 June 2005 and ratified it on 6 September 2007. The treaty came into force in Serbia on 1 January 2008. In accordance with Article 12, paragraph 1, of the Charter, the Republic of Serbia declared that it would not be bound by Article 4, paragraphs 3 and 5,

Article 6, Article 7, paragraph 2 and Article 8, paragraph 3 of the Charter;

c. a Congress delegation² carried out a monitoring visit to Serbia from 29 June to 1 July 2010, visiting Belgrade, Novi Sad and Novi Pazar;

d. the rapporteur wishes to thank the Permanent Representation of Serbia to the Council of Europe, Serbian authorities at central, regional and local levels, the Standing Conference of Towns and Municipalities of Serbia and experts as well as other interlocutors for their valuable co-operation at different stages of the monitoring procedure.

3. The Congress notes with satisfaction that:

a. the guiding principles of local self-government, as enshrined in the European Charter of Local Self-Government, are secured in Serbian legislation. The Serbian Constitution guarantees the right of citizens to provincial autonomy and local self-government and enforces it as a limitation to state power, while subjecting it only to supervision of constitutionality and legality;

b. the rapporteur received the general impression that there exists a widespread acknowledgment of the need to reform local self-government;

c. the change of Serbia’s status from being part of a federated state to an independent country has had a positive impact on the status of provincial autonomy within the unitary state of Serbia. In this context, a special chapter in the Serbian Constitution and several laws, including the Statute of the Autonomous Province of Vojvodina, in force since 1 January 2010, are proof of a political commitment in favour of regional autonomy;

d. there have been developments concerning citizens’ participation and citizens’ consultation in the decision-making process, as well as the protection of human and minority rights in Serbia, since the adoption of the present constitution in November 2006, at national, regional and local levels;

e. the transfrontier co-operation between the autonomous province of Vojvodina and similar entities of other countries is functioning smoothly.

4. The Congress expresses concern that:

a. the functioning of local self-government has been significantly affected by measures undertaken by Serbian authorities in order to cope with the global financial crisis. One of these measures has been to significantly reduce transfers made to local governments from the national budget. These reductions, coupled with the fact that all other sources of local authority revenue are severely diminished due to the economic crisis, have had a seriously damaging impact on the actual ability of local authorities to effectively accomplish their (own or delegated) tasks;

b. there is a lack of awareness about and practice of inter-municipal co-operation in Serbia whereas pooling scarce resources for service delivery could contribute to overcome the dramatic economic situation in many municipalities;

c. the implementation of legal provisions concerning consultation of local authorities by central government still has considerable room for improvement;

d. the existing general legal framework does not fully take into consideration the special status of Belgrade as capital city. The specific needs and challenges faced by the capital city would justify the allocation of financial resources accordingly.

5. The Congress welcomes:

a. the proclamation of the new Statute of the Autonomous Province of Vojvodina (see paragraph 3.c), but nevertheless underlines the need to continue and further strengthen the process of decentralisation of the autonomous provinces, with particular attention to concomitant financing;

b. the enactment of the much-needed law on the assets of local authorities. The Law on Public Property was finally adopted in September 2011. There has been a noticeable delay, however, in Serbian authorities solving one specific problem that Serbia is confronted with, namely, the restitution of public property to local authorities;

c. the adoption of the Law on Amendments to the Law on Local Government Finance in July 2011 which amended the method of transfer calculation and percentage of local government share in revenues from taxes on salaries. It will enter into force on 1 October 2011;

d. the information that the draft law on local government staff is being prepared by the Ministry of Public Administration.

6. The Congress recommends that the Committee of Ministers invite the Serbian authorities to:

a. 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, considering it a form of administrative supervision which may go beyond the limits foreseen by Article 8 of the European Charter of Local Self-Government;

b. increase the field of competences and resources of the capital city of Belgrade while undertaking legislative changes, in the light of Congress Recommendation 219 (2007) on the status of capital cities;

c. finalise the legislation dealing with the status of local government staff, in order to define a consistent system for their financial compensation mechanisms;

d. institutionalise and develop, in co-operation with the Standing Conference of Towns and Municipalities of Serbia, the practice of intermunicipal co-operation and joint delivery of a number of services;

e. consolidate in compulsory legal standards, the existing mechanisms, procedures and practices in the area of consultation of local authorities in compliance with the requirements of Article 4, paragraph 6, of the European Charter of Local Self-Government;

f. continue the implementation of the status of autonomy for the province of Vojvodina, taking inspiration from the principles set out in the Reference Framework for Regional Democracy, in particular as regards concomitant financing;

g. lift reservations, 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, paragraph 3);

h. consider, in the near future, signing and then ratifying 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);

i. expand the good practices seen as a result of the status of autonomy of Vojvodina to other local administrative units, with the aim of enabling their authorities to better respond to the specific needs of cultural diversity and protection of minority languages, in areas traditionally inhabited by minority groups;

j. consider the signature and ratification in the near future of the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 106) and its additional protocols.

7. The Congress recommends that the Parliamentary Assembly of the Council of Europe take account of these observations and recommendations in the monitoring of the commitments and obligations which Serbia undertook when acceding to the Council of Europe.

8. The Congress recommends to the Serbian authorities responsible for local self-government that they appoint a high-level government representative to participate in one of the Congress sessions to make a presentation on the progress of local self-government reforms in Serbia in the light of the observations made in the present recommendation.

1. Debated and adopted by the Congress on 20 October 2011, 3rd Sitting (see Document CG(21)4, explanatory memorandum), rapporteur: O. A. Kvaløy, Norway (R, NR).

2. Upon decision of the Institutional Committee, Mr Christopher Newbury (Rapporteur for local democracy, United Kingdom) and Mr Odd Arild Kvaløy (Rapporteur for regional democracy, Norway) were appointed Rapporteurs for Serbia and instructed to prepare and submit the report on local and regional democracy in Serbia. They were assisted by Ms Elena Simina Tanasescu, consultant and member of the Group of Independent Experts on the European Charter of Local Self-Government. Following the termination of Mr Christopher Newbury's mandate as a member of the Congress in October 2010, the current recommendation is presented by Mr Odd Arild Kvaløy.