

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Recommendation 349 (2013)¹ Local and regional democracy in Albania

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

a. Article 2, paragraph 1*b*, of 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 and the revised Charter appended thereto, which stipulates 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 2, paragraph 3, of the above-mentioned Statutory Resolution CM/Res(2011)2, which stipulates 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 are implemented”;

c. its Resolution 307 (2010)REV2 on procedures for monitoring the obligations and commitments entered into by the Council of Europe member states in respect of their ratification of the European Charter of Local Self-Government (ETS No.122);

d. its Recommendation 219 (2007) on the status of capital cities and Recommendation 132 (2003) on municipal property in the light of the principles of the European Charter of Local Self-Government;

e. its Resolution 299 (2010) on 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 in its monitoring activities, as well as the reply given by the Committee of Ministers to Congress Recommendation 282 (2010) (CM/CONG(2011) Rec282final), encouraging the governments of member States to take account of the above mentioned reference framework in their policies and reforms;

f. its Recommendation 201 (2006) on local and regional democracy in Albania;

g. the explanatory memorandum (CG MON(24)8) on local and regional democracy in Albania, presented by Ždenek Brož and Åke Svensson.

2. The Congress recalls that:

a. Albania signed the European Charter of Local Self-Government (ETS No. 122) on 27 May 1998 and fully ratified it on 4 April 2000, with entry into force on 1 August 2000;

b. Albania has not 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).

3. The Congress delegation carried out an official visit to Albania from 12 to 14 December 2012.²

4. The delegation would like to thank the Permanent Representation of Albania to the Council of Europe and the Albanian authorities at all levels of government, the associations of local and regional authorities, experts and other interlocutors for their valuable co-operation at different stages of the monitoring procedure and for the information conveyed to the delegation.

5. The Congress notes with satisfaction that:

a. the Albanian authorities have adopted a strategy for decentralisation that is a roadmap for more local and regional development in Albania, which constitutes an important step forward in the establishment of multi-level governance and electoral democracy in the country;

b. the Albanian system of local and regional self-government can, in general, be considered to correspond to the spirit and principles of the Charter;

c. the establishment of the Regional Development Fund has been instrumental in reducing the disparities between various local authorities and this should be recognised as a successful example of the decentralisation policy in Albania.

6. The Congress nevertheless expresses its concern that:

a. the partisan behaviour of local government leaders continues to prevent them from speaking with one unified voice, resulting in a situation where local elected representatives cannot find consensus inside local government associations and consolidate their position vis-à-vis the central government;

b. the co-existence of regional councils (*qark*) and the prefects as parallel structures in each region makes it unclear what competences are under the exclusive mandate of the regional council and is not in conformity with the provisions of Article 3 of the Charter, also giving rise to the risk of duplication and constituting the main obstacle for regional autonomy in Albania;

c. the organic law regulates, in a confusing manner, the structure, roles and competences of both the local and the regional authorities;

d. there are no clear regulations formalising the participation of the local government associations in the process of consultation with the central government;

e. the system of administrative supervision allows for a wide interpretation as regards the scope of supervision of local authorities' own functions;

f. local authorities do not have concomitant financial resources or local revenues commensurate with their own and shared competences, which is not in compliance with Article 9, paragraph 2, of the Charter;

g. local authorities are heavily dependent on financial assistance from the State, which resorts to the practice of cutting unconditional grants in certain cases; this is in contradiction with the provisions of Article 9, paragraph 5, of the Charter;

h. the city of Tirana does not have financial, fiscal and budgetary instruments adapted to its status as capital city.

7. In light of the above the Congress requests the Committee of Ministers to invite the Albanian authorities to take account of the following recommendations:

a. intensify the decentralisation process in the light of the Charter and the recommendations provided by the Congress, and begin a reform of the local and regional system that will allow communes and municipalities to fully carry out their responsibilities, particularly in the area of the spatial development of their territories and urban planning;

b. revise legislation to clarify the competences of local and regional authorities, revising in particular Articles 2, 7, 8, 9 and 10 of Law No. 8652 in the light of Article 4 of the Charter;

c. clarify the respective areas of competence of the prefect and the regional council (*qark*), and consider setting up a unified administrative structure accountable to the regional council, as well as introducing direct and universal elections for the regional councils;

d. consolidate the institutions of the regional level and reform the system of regional finances;

e. introduce a specific provision in Law No. 8652 aiming to formalise the process of consultation of local authorities

by the central authorities, to ensure consultation “in due time and in an appropriate way, on matters which concern them directly”, as required by Article 4, paragraph 6, of the Charter;

f. provide support to the Council of Europe and the Congress in the implementation of their project entitled “Strengthening the local government structures and co-operation between local officials in Albania” funded by the Swiss Confederation and, in particular, support the efforts of local officials to build a platform of pluralist dialogue involving all representative bodies of local communities to protect their interests;

g. ensure, through legislation, that the supervision of local authorities exercised by the central authorities concerning 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;

h. improve the legal status of Tirana in order to provide the capital city with the relevant financial, fiscal and budgetary instruments to allow it to function adequately as a capital city;

i. sign and ratify, in the near future, the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority.

1. Debated and adopted by the Congress on 31 October 2013, 3rd Sitting (see Document CG(25)11 explanatory memorandum); rapporteurs: Ždenek Brož, Czech Republic (L, ECR) and Åke Svensson, Sweden (R, SOC).

2. In their work, the rapporteurs were assisted by David Melua, consultant, who is a member of the Group of Independent Experts on the European Charter of Local Self-Government, and by Sedef Cankoçak, Co-Secretary of the Monitoring Committee of the Congress.