

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Resolution 171 (2004)¹ on local and regional democracy in the Russian Federation

The Congress,

1. Drawing attention to:

a. Article 2.1.*b* of the Committee of Ministers' Statutory Resolution (2000) 1, which provides 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 2.3 of Statutory Resolution (2000) 1, which provides: "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 Resolutions 31 (1996), 58 (1997) and 106 (2000), which set out guidelines on drawing up the reports;

d. Its Recommendation 30 (1997) on the state of local self-government and federalism in Russia;

2. Having regard to explanatory report CG (11) 5 and Recommendation 143 (2004) on local and regional democracy in Russia;

3. Thanking the Russian delegation to the Congress, the Congress of Local Authorities of Russia and the Nijni Novgorod region for their valuable assistance with the report and the arrangements for the on-the-spot visits,

4. Wishes to draw the Constituent Entities' and Russian local authorities' attention to a number of general observations and recommendations .

5. Welcomes the completion of the first stage in reform of local self-government and federalism in Russia, culminating in the enactment in 2003 firstly of the federal law amending and supplementing the federal law on the general organisational principles applying to legislative (representative) and government bodies of Constituent Entities of the Russian Federation and secondly of the federal law on the general organisational principles of local self-government in the Russian Federation (hereinafter "the framework laws");

6. Acknowledges that, through its work, the commission in charge of the reform, chaired by Dmitri Kozak, has set in motion a constructive multi-stage process with regard to local administration in Russia and has laid the foundations

for a more balanced apportionment of powers between the three levels of public authority in Russia (the Federation, the Constituent Entities and the local authorities) on the basis of the subsidiarity principle (Article 4.3 of the Charter);

7. Takes the view that the commission chaired by Dmitri Kozak and the Russian legislature have done a huge amount to clarify and explain the constitutional provisions on relations between the Federation and the Constituent Entities, particularly as regards the apportionment of powers in areas of joint responsibility;

I. Regarding reform of federalism

8. Notes that, with regard to the Constituent Entities, the reform based on constitutional principles has been given effect in the Federal Law of 4 July 2003 (hereinafter "Federal Law No. 95"), which seeks primarily to:

a. give precise expression to the constitutional principles of Articles 71-73 in a piece of general legislation not only dealing with matters of local government organisation in the Constituent Entities but also laying down the framework for exercise of powers in areas of joint responsibility, a matter which has often caused difficulties in relations between the Federation and the Constituent Entities;

b. reassert the principle of the rule of federal law;

c. ensure concordance between powers and finances;

d. improve the arrangements for federal supervision;

9. Observes that the new law likewise seems sufficiently flexible to deal with specific situations and handle crises (in particular by means of treaties), in accordance with the Federal Constitution;

10. Regards the concern for clarity and precision as laudable and as helping to put an end to situations where regional legislation has flatly contradicted federal legislation;

11. Welcomes, in this connection, the work throughout the 2000-2003 period to bring regional legislation into line with the Constitution and federal legislation;

12. Calls on the Constituent Entities in particular to:

a. abide by the Constitutional Court's decision of 7 June 2000 ruling that the Russian Federation alone holds sovereignty;

b. play their part in the implementation of the reform of federalism in a spirit of co-operation;

c. introduce generally the institution of regional ombudsman in accordance with the recommendations in Congress Recommendation 61 (1999).

II. Reform of local self-government

13. Notes that, in the past, serious difficulties were encountered in a number of the Constituent Entities

concerning the setting-up and operation of local self-government;

14. Welcomes the fact that the new federal framework law on the general organisational principles of local self-government in the Russian Federation (hereinafter “the new framework law” or “Federal Law No. 131”) offers guarantees on establishing and operating local self-government throughout the Russian Federation;

15. Notes with satisfaction that, while being autonomous bodies operating outside the system of central government, local authorities are recognised by the new framework law as public authorities in exactly the same way as the federal authorities and the Constituent Entity authorities;

16. Believes that the Constituent Entities have a paramount role to play in implementing the framework law;

17. Notes that all the Constituent Entities will have to meet the general requirements of the new framework law and, to that end, bring into line by 1 June 2006 their constitutions (statutes), laws and other legislative or regulatory instruments;

18. Calls on the Constituent Entities to accordingly adopt or amend within the time limit their legislation relating to:

a. public services at local level;

b. delegation of functions by central bodies to local self-government bodies;

c. administrative responsibility and removal from office of elected local-government organs;

d. introducing standards and rules for classification of assets belonging to local authorities;

19. In particular calls on the Constituent Entities to pay special attention to the following matters in implementing the reform of local government:

A. Setting up new local authorities and changes to the statutes or boundaries of existing local authorities (Article 5 of the Charter)

20. Under the new framework law, the Constituent Entities have until 1 January 2005 to set local authority boundaries and designate local authorities as urban or rural communes, urban districts or municipal districts;

21. That means that the Constituent Entities must by that date draft and adopt new versions of their laws on the setting or alteration of local authority boundaries and on setting up, altering or abolishing local authorities, taking account of the needs of the local communities concerned;

22. In this connection the transition from the present urban commune (town or city) to “urban district” (*gorodskoy okrug*) is extremely important to the development of towns and cities in Russia and consequently to the development of the country as a whole;

23. Although under the new framework law the regional legislature alone will be empowered to decide definitively whether a particular town or city can have urban-district status, change of status or refusal of change of status should require approval by the people;

24. It is therefore advisable to preserve urban municipalities that have a sound economic and social base and communities that identify clearly with their municipalities;

B. Powers of local authorities (Article 4 of the Charter)

25. The Constituent Entities must also take care as regards the powers transferable to self-governing local authorities. This is a matter in which practices at regional level will have to be taken into account;

C. Administrative supervision (Article 8 of the Charter)

26. Administrative supervision of local authority measures to ensure their lawfulness is to be performed by the public prosecutor or the courts. This is an important advance for local authorities;

27. The procedure for supervision of local authority measures and for proceedings against or imposing penalties on elected local self-government bodies (the representative body, the leader of the municipality and the head of administration) are laid down in the new law. The local authorities have adequate safeguards through the courts for challenging any decisions concerning them. It will thus be for the judicial authorities to play their full part in the procedure;

28. Recourse to proceedings against elected bodies must be taken in exceptional cases only, in accordance with the legislation;

D. Setting up councils of local authorities (Article 10 of the Charter)

29. Under the new framework law the Constituent Entities have until 1 June 2006 to hold congresses for setting up Constituent Entity councils of local authorities. This requires that laws on setting up such councils must have been drawn up by that date;

30. Care must be taken that such associations of local authorities are fully representative, independent and capable of protecting authorities’ interests regionally, so that their interests are better protected and taken into account at federal level by the Congress of Local Authorities of Russia;

31. Calls on local authorities, in accordance with the new framework law, to:

a. bring their statutes into line with the new framework law or to draft new ones in the event of a change in status;

b. in particular amend municipal legal measures, or draw up new ones, on:

- i. setting up representative bodies in municipal districts;
- ii. citizens' right of assembly;
- iii. the holding and conduct of public hearings;
- iv. arrangements for citizens' assemblies;
- v. holding and conducting citizens' conferences (meetings of representatives);
- vi. citizens' initiatives;
- vii. award of public contracts;

32. Calls on the Congress of Local Authorities of Russia to:

- a.* continue its collaboration with the Council of Europe on provision of training for elected representatives and staff of local authorities;
- b.* circulate to local authorities the European Code of Conduct for Local and Regional Elected Representatives.

1. Debated and adopted by the Congress on 26 May 2004, 2nd Sitting (see Document CG (11) 5, draft resolution presented by G. Rhodio (Italy, L, EPP/CD) and H. U. Stöckling (Switzerland, R, ILDG), rapporteurs).