

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Recommendation 328 (2012)¹ The right of local authorities to be consulted by other levels of government

1. As laid down by Articles 4.6, 5 and 9.6 of the European Charter of Local Self Government (ETS No. 122), which 45 of the 47 Council of Europe member States have now ratified, the right of local authorities to be consulted constitutes one of the core principles of local democracy.

2. Local authorities should therefore be consulted and should have an active role in adopting the decisions on all matters that concern them – namely the implementation of policies or legislation directly affecting their legal status, tasks and functions and economic or financial situation – and in a manner and timing such that local authorities have a real opportunity to formulate and articulate their own views and proposals, in order to exercise influence on the decision-making process affecting them.

3. In the light of the Council of Europe Reference Framework for Regional Democracy, the Congress of Local and Regional Authorities of the Council of Europe, which represents both local and regional authorities in member States, proposes that the same rights of consultation be applied at the regional level.

4. Most of the measures set out in Congress Recommendation 171 (2005) on the consultation of local authorities: implementation of the European Charter of Local Self-Government (Articles 4.6, 5, 9.6 and 10) are still relevant and still need to be implemented, namely to enshrine the right of consultation in law, to develop consultation into negotiation, to recognise associations as partners in the consultation process, to set up permanent consultation bodies, to systematically consult on important issues and to evaluate the effectiveness of those consultations.

5. The Congress therefore refers to the above-mentioned provisions of the European Charter of Local Self-Government, its Recommendation 171(2005) referred to above and the Council of Europe Reference Framework for Regional Democracy, and recommends that, with regard to consultation of local and regional authorities by other levels of government on issues that concern them, the Committee of Ministers invite member States to ensure that:

a. all member States implement, at national, regional and local levels and, if necessary, elaborate or revise consultation processes that are clearly defined and transparent, preferably enshrined in law, otherwise in written agreements, in line with the criteria laid down in the relevant provisions of the European Charter of Local Self-Government, specifying the format of such consultations, the level of participation of rep-

resentatives of local and regional authorities, the time frame for consultations and covering all matters of interest for local and regional authorities;

b. consultation of local and regional authorities is a required part of policy making and the legislative process, to enable them to express their interests and opinions in time for these to be taken into account in policy and legislative formulation;

c. it is made clear that all government ministries which formulate policies that have implications for local and regional government are obliged to consult with representatives of the authorities concerned;

d. consultations are conducted in written form and also in person, with other levels of government making clear the participatory rights of local and regional representatives in the consultation process and the form of national and, where applicable, regional level representation in the consultation process also being clearly specified;

e. central and regional authorities provide proper clear and detailed information, in writing, about proposed policies, well before the consultations are due to take place, in order for those consulted to be well informed about the motives and objectives of each planned decision or policy;

f. strategically important decisions are based on careful analysis of the implications for self-governance as well as of the economic consequences for the local and regional level;

g. local and regional government expertise is involved in the process of drafting policies and legislation at an early stage, for example through participation in working groups to prepare new legislation;

h. local and regional authorities have a clearly defined right to petition if they believe that necessary consultations have not been properly conducted, and a right to redress if it is established that procedures were not properly followed;

i. consultations are regular and systematic, with the different possible forms of consultation (as mentioned in *d.* above), and the contexts in which they are used, being clearly specified;

j. member States which have not yet committed to implementing the relevant articles of the European Charter of Local Self-Government, review their commitments with a view to extending their implementation of the charter to cover all the articles concerning consultation;

k. the results of consultation exercises are made clear, namely through a detailed written explanation of the reasons for not retaining any proposals made, and these are published;

l. where national associations of regional authorities still do not exist, the creation of such associations be encouraged and stimulated, in order to provide national and, where applicable, regional authorities with appropriate representatives at local and regional level for the consultation processes.

1. Debated and adopted on 18 October 2012 by the Congress, 3rd Sitting (see Document [CG\(23\)11](#), explanatory memorandum), presented by I. Henttonen, Finland (L, ILDG) on behalf of B.-M. Lövgren, Sweden (L, ILDG), rapporteur.