

# THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

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## Recommendation 348 (2013)<sup>1</sup> Local and regional democracy in Ukraine

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 102 (2001) on local and regional democracy in Ukraine;

*g.* the explanatory memorandum (CG(25)8PROV) on local and regional democracy in Ukraine, presented by Marc Cools and Pascal Mangin.

2. The Congress delegation carried out two official visits to Ukraine from 20 to 23 May 2012 and from 22 to 23 April 2013.<sup>2</sup>

3. The delegation would like to thank the Permanent Representation of Ukraine to the Council of Europe and the Ukrainian authorities at all levels of government, the associations of local and regional authorities, experts and all the persons with whom discussions took place, for their interest in the Congress’ work, their co-operation throughout the visit and the information conveyed to the delegation.

4. The Congress notes that:

*a.* Ukraine signed the European Charter of Local Self-Government (STE No. 122) on 6 November 1996 and ratified it, all provisions included, on 11 September 1997, with entry into force on 1 January 1998;

*b.* Ukraine 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) on 20 October 2011 but has not yet ratified it.

5. The Congress welcomes:

*a.* the initiatives taken by the government as regards substantial territorial reform and local and regional autonomy and the fact that local authorities have been represented in this process by their associations through the consultation mechanism, as well as the adoption of the Strategy for Regional Development until 2015 by the government;

*b.* the adoption of the Law on Associations of Local Authorities of 16 April 2009 which defines the legal basis for the organisation and activities of local government associations and their voluntary union as well as their interaction with central and local authorities;

*c.* the joint action of the national Ukrainian associations within their Congress of Local and Regional Authorities of Ukraine;

*d.* the declarations made by the President of Ukraine on 28 March and 6 June 2013, in which he states that local government reform is one of the most urgent reforms that the country should carry out;

*e.* the creation of co-ordination and consultation instruments such as the Constitutional Assembly, which brings together representatives of political parties and civil society to develop proposals for the changes to be made to the Constitution of Ukraine, and the Council of Regions which aims to improve relations between the State governments and local authorities;

*f.* the work of the Constitutional Assembly on the Amending Motion on Chapter XI – Local Autonomy – of the Constitution of Ukraine presented to the assembly at its meeting of 21 June 2013;

*g.* the ratification by Ukraine of Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (ECGs) (CETS No. 206).

6. The Congress regrets, however:

*a.* the legislation that limits the local authorities' ability to take decisions and manage their own affairs to "matters of local importance" and the fact that local authorities cannot fully exercise their competences on all matters that concern them, which poses a problem with regard to Articles 3 and 4 of the Charter;

*b.* that several towns and cities, including the capital, have remained without an elected mayor for long periods owing to a gap in the electoral law, which undermines the exercise of local self-government in these towns and cities, in particular in the light of Article 7, paragraph 1 of the Charter;

*c.* the limits put on local governments' financial autonomy by the restrictions on the system of inter-budgetary relations, as well as the insufficient concomitant financing of delegated competences, that transparency is not always guaranteed, notably in the distribution of subsidies and transfers and the complexity of the equalisation formula which complicates its application to the regions;

*d.* the absence of a clear division of powers and administrative activities between central government administration and local and regional authorities, which may give rise to overlapping or duplication in the exercise of powers and cause interference from the central level (in the person of the Head of the Administration) in the activities of local authorities and to non-compliance with the provisions of Article 8 of the Charter;

*e.* the rural exodus which has been the cause of a demographic decline and difficulties in maintaining local economic vitality in many municipalities, and a recentralisation of the competences of small towns by the reallocation of these powers, initially granted to local authorities, to the State;

*f.* the slow pace of the reform despite the strong statements made at the highest level of the State, and the new draft laws recentralising competences at the central level in spite of the aims of the reform.

7. In the light of the above, the Congress recommends that the Committee of Ministers invite the Ukrainian authorities to take into consideration the following recommendations:

*a.* reinforce subsidiarity by granting local authorities competence for a substantial share of public affairs and increase the capacity of local authorities to act, by promoting voluntary amalgamations between local authorities in the manner to be specified by the central authorities, such as, for example, mergers and inter-municipal co-operation;

*b.* organise, in the shortest possible time, elections for mayors in the towns and cities where this post has been vacant for a long time and, in particular, in the capital city of Kyiv;

*c.* reinforce the financial autonomy of local authorities and improve the equalisation system, providing a fair and transparent redistribution of funds, based on clear criteria and objectives, by including it in the reform agenda to ensure conformity with Article 9 of the Charter ;

*d.* transfer the competences of the authorities in districts and regions to elected representatives in order to establish an administration under their responsibility;

*e.* develop specific strategies, notably by transferring competences to the local level, aimed at revitalising the peri-urban and rural areas exposed to demographic, economic and social decline, and involve local authorities in these geographical areas in the development of these strategies by the central government authorities;

*f.* implement the draft reform in a timely manner by adopting legislation based on the Amending Motion on Chapter XI of the Constitution of Ukraine, presented at the meeting of the Constitutional Assembly on 21 June 2013 and, if necessary, through a revision of the constitution;

*g.* 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, already signed by Ukraine on 20 October 2011, particularly in order to strengthen public access to locally important planning documents.

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1. Debated and adopted by the Congress on 31 October 2013, 3rd Sitting (see Document CG(25)8, explanatory memorandum); rapporteurs: Marc Cools, Belgium (L, ILDG), and Pascal Mangin, France (R, EPP/CCE).

2. The rapporteurs were assisted by Bernd Semmelroggen, consultant and member of the Group of Independent Experts on the European Charter of Local Self-Government, and by Ms Sedef Cankocak, Co-Secretary to the Monitoring Committee of the Congress.