

Meeting of the Monitoring Committee, Remote meeting, 17 September 2020

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Dear members,

I am delighted to be here with you today and together with my co-rapporteur Gunn Marit HELGESEN present the draft report about the implementation of the European Charter of Local Self-Government in Ukraine.

The last Congress report on Ukraine was adopted back in 2013 and underlined the importance of implementing a genuine decentralisation reform.

Since then, needless to remind the longstanding cooperation with Ukrainian authorities on various issues regarding local and regional democracy.

As you also know, many historic developments, both positive and dramatic, have happened in Ukraine. On the one hand, the country was transformed owing to the Euromaidan revolution of dignity, on the other hand, it was confronted with the illegal annexation of the Autonomous Republic of Crimea and the military intervention of the Russian Federation in the east of Ukraine.

Despite unprecedented challenges, the government set a full-scale decentralisation and local self-government reform on top of its political agenda. In 2015, Ukraine signed a roadmap to implement Congress recommendations and expanded cooperation with the Congress under the Council of Europe Action Plan for Ukraine.

In 2017, in my capacity as Congress President, I chaired a Congress high-level delegation that paid an official visit in Ukraine. We were glad to observe that the country remained committed to the decentralisation reform and had achieved a visible progress, notably in the areas of sectorial decentralisation and amalgamation of communities.

I can already say that we have gained the same global positive impression about the decentralisation reform after this year's visit to Ukraine. This being said, the reform efforts need to continue and some aspects of the reform need to be more fully aligned with the requirements of the Charter. My co-rapporteur will speak more in detail about the challenges on this path later.

To fully implement the decentralisation reform, Ukraine has had to accomplish the fundamental reform of its complicated and inefficient administrative-territorial structure, established yet during the Soviet era, and to adopt the constitutional amendments on decentralisation.

The amendments on decentralisation, supported by the Venice Commission, were approved in first reading in 2014 but the process stumbled in 2016. The parliament was not ready to adopt the changes on

decentralisation which were proposed in package with the constitutional provision on a special status of some areas in Donetsk and Luhansk regions.

In 2019, the President re-launched the constitutional process after the change in the parliament. I trust that the Ukrainian authorities will finally adopt the Constitutional amendments. This will ensure the irreversibility of the decentralisation and local self-government reform.

The constitutional changes will allow to resolve another outstanding issue – the separation of powers at rayon and regional level.

Heads of Local State Administration cannot continue to serve both as state representatives in the regions and rayons (and the city of Kyiv and Sevastopol also) and executives of elected rayon and regional councils. This situation is not consistent with the principle of local autonomy.

However, the transfer of the executive powers to the rayon and regional councils is not possible under the current Constitution, so it has to be amended.

We also support the planned replacement of the institution of Head of Local State Administration at rayon and region level by the more modern institution of prefect. Prefects should be in charge of supervising the compatibility of local authorities' acts with the Constitution and laws of Ukraine.

We would like to encourage the Ukrainian authorities to continue efforts to finalise the decentralisation reform and to ensure successful implementation of the measures already initiated.

I would also like to go more in detail now about the amalgamation reform in Ukraine. Municipal mergers have been an important element of the decentralisation reform and started in 2014 with the adoption of the Concept of the Reform of Local Government and Territorial Organization of Authority.

To date, 1469 new amalgamated territorial communities have been created in Ukraine. They have received additional competences and resources. This is a positive conclusion.

However, the problem arose with respect to the fact that the amalgamation of communities which started as voluntary in 2014, has been finalized, this summer, by a government decree. The government explained this step by the need to complete the territorial reform ahead of the local elections scheduled for 25 October 2020.

We received many complaints from local authorities of various municipalities from different regions, in particular from Lviv and Kyiv regions, about so-called forced mergers. They opposed either the merger of their communities in new amalgamated territorial communities or the merger of already established amalgamated territorial communities into a bigger one.

In fact, the municipal amalgamation took place according to so-called "Perspective Plans" for the formation of "capable" new amalgamated territorial communities of every region. These perspective plans were prepared by regional state administrations who had to consult local authorities before sending the finalised plans to the government for adoption.

I remember that already during the monitoring visit to Ukraine we met with the representative of the District of Fastiv, who said that the district council and village councils submitted their proposals to the Kyiv regional state administration, but they were largely ignored.

So, several municipalities resented the process of forced amalgamation and complained that their right to consultation under Article 5 of the Charter was not respected.

And particularly painfully this situation was lived through by those communities whose boundaries were changed by the governmental decree despite the fact that they had amalgamated voluntarily before and invested many efforts to find a new identity and create new structures.

All this poses issues regarding the implementation of Article 5 by Ukraine. That's why we conclude on partial compliance of Ukraine with Article 5 and recommend that Ukrainian authorities ensure a comprehensive and stable system of consultation with local authorities and their associations on all matters that concern them.

On a more positive note, inter-municipal cooperation has been promoted in Ukraine and important steps have been taken towards financial decentralisation.

Ukraine abolished outdated soviet-style system of state control over local self-government through "procuratora" (prosecution office) and started the transition to a new comprehensive system of state supervision in line with the Charter. In this respect, as I have already mentioned, we support the establishment of the institution of prefects.

We welcome Ukraine's ratification of the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority.

Thank you for your attention.