

Forum “Decentralisation – a way to local self-governance”

Organized by the **Kyiv Regional Council**

Tuesday, 1 March 2016, 10:00 a.m.

Speaking notes of Andreas Kiefer, Secretary General of the Congress of Local and Regional Authorities of the Council of Europe

Madam President of the Kyiv Regional Council,

Dear Mrs. Starykova,

Ladies and Gentlemen,

The Congress of Local and Regional Authorities of the Council of Europe has always recognised the crucial importance of local democracy and that is why it promotes and encourages a style of local self-government that meets the needs of the citizens whether they live in urban or rural communities.

The process of decentralisation is mostly about giving more power and responsibility to local self-governments, which are close and, what is even more important, accountable to their communities. In such a way democracy is rooted at the local level and thus creates a sound and irreversible foundation for democracy at the national level.

With the decentralisation of power, the quality of local governance has become decisive, including its ethical dimension. This is why, besides introducing criminal law provisions against corruption, it is essential at national and local levels to promote ethical standards common to all local and regional elected representatives. It is a question of both reducing the risk of corruption and boosting the public's confidence in local and regional policy-makers. Any failure to comply with these standards undermines not only the credibility of local and regional elected representatives but of democracy in general and thus erodes the very foundations of the rule of law. It needs independent media, acting fair and based on codes of conduct and ethical principles and committed to the truth to provide transparency. But it also needs trust in public institutions, in their, and their political and administrative representatives, compliance with legal provisions and ethical standards. It needs checks and balances and, I repeat, the respect for the rule of law.

Dear Mrs. Starykova, I very much welcome your initiative for this conference and the Congress is happy to contribute also in future events. I invite you to discuss the details with the project team of the Congress in the Council of Europe office here in Kyiv.

Ukraine became the 37th member state of the Council of Europe in 1995, more than twenty years ago, and ratified the European Charter of Local Self-Government in September 1997 and its Additional Protocol on the right to participate in the affairs of a local authority in September 2014. This voluntary membership in the Council of Europe entails a commitment to the common values that unite us on this continent: democracy, human rights and the rule of law.

In 2015, 20 years after Ukraine joined the Council of Europe, the Congress signed an agreement with the Ukrainian government to implement a so-called road map of constitutional and legislative changes to establish decentralization and empowerment of the local authorities.

Also in 2015 the Ukrainian government and the Council of Europe agreed on an Action Plan to support Ukraine in fulfilling its obligations as a Council of Europe member and to contribute to addressing fundamental issues of human rights, rule of law and democracy. It is the largest Action Plan ever adopted by the Council of Europe with an overall budget of 45 million Euros. It supports Ukraine in the areas of

- constitutional reform and functioning of democratic institutions,
- reform of the judiciary,
- democratic governance
- economic crime and
- human rights.

I would like to highlight several major strategic policy developments which show that Ukraine is on the right path. The adoption of the Concept of Local Self-governance in April 2014 signaled the beginning of the key process of decentralisation. These also relate to the adoption of the latest legislation on regional policy, amalgamation and inter-municipal cooperation. Ukraine has launched an ambitious reform of local self-government and decentralisation. I would like to emphasize that many promising institutional and legislative improvements were initiated and launched by Ukrainian authorities; still a lot has to be done in order to ensure further democratic development of the country.

Last year we celebrated the 30th anniversary of the European Charter of Local Self-Government, an international binding treaty, which is the cornerstone of local democracy in Europe and was ratified by all 47 Council of Europe member States.

I would like to take some time to refer to some of the Charter's main principles:

- local self-government, including its basic powers and responsibilities, should be recognised in domestic legislation, and where practicable in the Constitution;
- the right of local authorities to regulate and manage public affairs under their responsibility and in the interests of the local population;
- the powers given to local authorities shall normally be full and exclusive and the administrative supervision of local authorities should be conducted in proportion to the importance of the interests intended to protect;

- local authorities are entitled to adequate financial resources of their own and commensurate with the responsibilities provided for by the constitution and the law;
- the right of local authorities to be consulted by other levels of government.

As in many other aspects of local democracy, consultation does not come naturally; all stakeholders involved need to meet each other and to engage in real dialogue. This is the reason why we believe that local elected representatives, namely local councilors, mayors, head of village councils, need to be empowered so as to effectively contribute to the design of policies which concerns their communities.

Engaging citizens is another key element of good governance. It is part of the Preamble of the Charter and has been reinforced by the Additional Protocol on the right to participate in the affairs of local authorities. This is also a major responsibility of yours to keep a lively dialogue with citizens to take into consideration their needs when deciding. This will vital to enhance their trust in the public authorities.

So what does the Charter offer? First of all, its fundamental contribution is to offer guidelines on how to organise a democratic state. It is a treaty which provides a guarantee for local authorities that the state has undertaken to implement the provisions of the Charter and comply with them. Lastly, more pragmatically, it is a compendium setting out the basic minimum level of rights which local authorities in democratic countries must enjoy.

Much has changed since the Charter was opened for signature in 1985. The map of Europe has been redrawn since then. In 1985 the Council of Europe had 21 member states; now we are a family of 47. Today the Charter has evolved into one of the key Council of Europe treaties, one of the select few to have been signed and ratified by all 47 of our member states. It has had a huge influence on the legislative and constitutional developments concerning local democracy in our member States. It has become a shared achievement of all Council of Europe member states.

However, there is no point in signing and ratifying conventions if they are not applied. And this is where the monitoring of the Charter by the Congress under a mandate from the Committee of Ministers comes into play.

This monitoring is a political mechanism designed to see how states comply with the provisions of the Charter and to improve the state of local democracy. It is a political mechanism, not a form of inspection. It is designed so that the monitoring of the application of the Charter takes place in the context of a political dialogue.

It works on a peer to peer basis. Members of the Congress meet elected representatives, politicians of municipalities, cities and regions, and members of the government of the country to discuss with them their difficulties, good practices and reforms for implementing the Charter.

The process is democratic, transparent, impartial and independent. It is, ideally, geared towards an obligation to produce results but it obviously depends here on the goodwill of the member states' national authorities and that is variable.

In 2013, the Congress analysed the recurring issues that arose during its monitoring exercises to identify the provisions of the Charter which were most difficult to implement. The results came as no surprise: the main issues were a lack of adequate financial resources, a lack of appropriate procedures for consultation of local authorities by governments, a lack of clarity in the apportionment of powers and the absence or ineffectiveness of legal remedies for local authorities when supervising levels exceed their right of control and unduly interfere in the autonomous sphere of responsibilities.

These difficulties are found in almost 80% of the recommendations that the Congress has made to governments of member states, which says much for the key provisions of the Charter. The crisis, currently affecting Europe, changes nothing in this respect. The difficulties may even be greater, but they existed before and, as an international treaty, the European Charter must apply regardless of the economic situation.

So what can the Council of Europe Congress do to help states address these recurring issues? It can help with implementing and identifying solutions, reforms, appropriate legislation and good practices.

First of all, the Congress has developed an additional or, rather, “complementary” tool, namely post-monitoring. I’m pleased to state that post-monitoring programme was successfully implemented in Ukraine during 2014 – 2015, resulting in the Roadmap for implementation of the decentralisation reform in Ukraine signed by the Congress and Ukrainian authorities in May 2015. This signing marked joint commitment of the Congress and Ukrainian authorities to work towards better local democracy rooted in the principles of the European Charter of Local Self-Government.

Secondly, the Congress was actively involved in the work of the Constitutional Committee of Ukraine and the Congress representative on that Committee made major contribution to developing constitutional amendments. The vote which took place in the Ukrainian parliament on 31 August showed the resolute determination prevailing in Ukraine to keep on course towards greater democracy. We, in the Congress, encourage the Verhovna Rada to take the necessary decisions and to implement the necessary reforms.

And last but not least, the Congress has recently started implementation of cooperation project on promoting local democracy in Ukraine. This project recently launched with an objective to improve the implementation of democratic principles in Ukraine by enhancing the relevant capacities of local elected authorities and by disseminating nation-wide best practices of local democracy; while fostering a democratic culture at local level. Congress project team will closely work with local elected representatives and young leaders, as well as with representatives of national government, Parliament, and associations of local self-government.

The Charter remains a demanding text because local democracy is a complex and challenging matter. It requires a degree of political maturity and demands willingness on the part of central government to delegate powers and responsibilities to other

levels of governance and accept genuine decentralisation in line with the subsidiarity principle.

Today I am here to confirm the readiness of the Congress to continue supporting you, who have political responsibilities, in your striving for reform, change and in fighting corruption. We do this by concrete activities targeted for mayors and councilors to share good practice and to get inspired and encouraged by successful examples. Our Congress members, mayors and councillors as you, are ready to encourage and support you in these difficult times of change, so that you and the women and men and young people that put trust in you and which you represent, can harvest the fruit of this process.

You can count of the Congress of Local and Regional Authorities of the Council of Europe!