

# THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

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## Recommendation 379 (2015)<sup>1</sup> Local democracy in Montenegro

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 relating to the Congress of Local and Regional Authorities of the Council of Europe and the revised charter appended thereto, which provides that one of the aims of the Congress shall be “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, stipulating 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.* 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.* Recommendation 293 (2010) on local democracy in Montenegro;

*e.* The attached explanatory memorandum on local democracy in Montenegro.

2. The Congress notes that:

*a.* Montenegro first joined the Council of Europe as part of the State Union which it formed with Serbia. As an independent State, Montenegro became a member of the Council of Europe on 11 May 2007. Montenegro<sup>2</sup> signed the European Charter of Local Self-Government (ETS No. 122, hereinafter “the Charter”) on 24 June 2005 and ratified it on 12 September 2008. The Charter entered into force with respect to Montenegro on 1 January 2009. Pursuant to Article 12, paragraph 2 of the Charter, Montenegro declared itself not to be bound by Article 4, paragraphs 3 and 5; Article 6, paragraph 2; Article 7, paragraph 2; and Article 8, paragraphs 2 and 3.

*b.* Montenegro 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 16 November 2009 and ratified it on 1 October 2010, with entry into force on 1 June 2012.

*c.* the Committee on the Honouring of Obligations and Commitments by member States of the European Charter of Local Self-Government (to be known as the “Monitoring Committee”) decided to monitor the state of local self-government in Montenegro and its compliance with the European Charter of Local Self-Government. It instructed Mrs Gaye Doganoglu, Turkey (L, EPP/CCE) and Mr Henrik Brade Johansen, Denmark (L, ILDG) to prepare and submit to the Congress, as rapporteurs, a report on local democracy in Montenegro;<sup>3</sup>

*d.* the monitoring visit took place from 9 to 11 June 2015 in Podgorica, Tuzi, Nikšić and Danilovgrad. During this visit, the delegation of the Congress held meetings with representatives of several local authorities, including members of the Union of Municipalities of Montenegro, State institutions and the Ombudsman. The detailed programme of the visit is appended to the explanatory report;

3. The Congress delegation would like to thank the Permanent Representation of Montenegro to the Council of Europe and the Montenegrin Union of Municipalities for their warm welcome and helpful assistance during the visit.

4. The Congress notes with satisfaction:

*a.* the generally positive nature of local democracy in Montenegro as regards the implementation of the principles enshrined in the Charter;

*b.* the adoption and implementation of new laws on local self-government and local self-government finance since the Congress’ previous recommendation (Recommendation 293 (2010));

*c.* the efforts made by the parliament as well as the government to improve the legal framework in which local democracy can be exercised, particularly in regard to the on-going public administration reform (AURUM), which suggests a set of promising legal developments for the state of local democracy in Montenegro;

*d.* the preparation, by the Ministry of the Interior together with the Union of Municipalities, non-governmental organisations (NGOs) and the Organization for Security and Co-operation in Europe (OSCE), of the Model Action Plan for the Fight against Corruption in Local Self-Government and the fact that all municipalities in Montenegro have adopted, or are in the process of preparing and adopting, updated action plans for the fight against corruption in local self-government for the period 2015-16;

*e.* the compliance with Articles 2, 3, 5, 7, 8 and 11 of the Charter and the respect *de facto* of the non-ratified provisions;

*f.* the signature, ratification, and application of the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority.

5. The Congress expresses its concern about the following:

*a.* the imprecise definition of municipal competences, notably concerning education and health care, which leads to difficulties in their implementation in practice;

b. the insufficient use in practice of the existing consultation mechanisms between the State and local self-governing units on all matters that concern them directly;

c. the inadequate administrative structure of local authorities, which is related to the inefficient management of human resources and lack of capacity to develop a sustainable internal administrative structure of local self-governing units;

d. the municipalities' lack of financial resources commensurate with their competences;

e. the high level of debt and unsettled liabilities of municipalities.

6. In the light of the above, the Congress asks the Committee of Ministers to invite the authorities of Montenegro to:

a. further pursue the declared objectives of the public administration reform (AURUM) by completing the legislative projects related to local democracy in Montenegro and ensuring their effective implementation in practice;

b. re-assess and clearly define the scope of competences of municipalities, notably regarding education and health care (Article 4, paragraph 2);

c. endorse and effectively make use of the consultation mechanisms between the State and municipalities on all matters which concern them directly by setting up a regular consultation procedure (Article 4, paragraph 6, and Article 9, paragraph 6);

d. ensure the implementation in practice, in the framework of the adopted Strategy for Professional Development of Local Civil Servants and Employees in Montenegro for the

period 2015-18, of a sustainable system of development of human resources in local self-governing units, which should be adapted to local needs (Article 6, paragraph 1);

e. allocate to local authorities financial resources which are commensurate with their powers and responsibilities (Article 9, paragraph 2);

f. create and put into practice a sustainable model of refinancing debts and liabilities of local government units vis-à-vis financial institutions (Article 9, paragraph 3);

g. consider changes in the legal framework of inter-municipal co-operation with a view to clarifying the role of central government in the creation of institutionalised forms of co-operation between municipalities (Article 10, paragraph 1);

h. reconsider the ratification of those provisions of the Charter that have yet not been ratified and appear already *de facto* to be applied.

7. The Congress invites the Committee of Ministers of the Council of Europe to take account of the present recommendation on local democracy in Montenegro, as well as its explanatory memorandum, in its activities relevant to this member State.

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1. Discussed and approved by the Chamber of Local Authorities on 21 October 2015 and adopted by the Congress on 22 October 2015, 3rd Sitting (see Document [CPL/2015\(29\)7FINAL](#), explanatory memorandum), rapporteurs: Gaye Doganoglu, Turkey (L, EPP/CCE) and Henrik Brade Johansen, Denmark (L, ILDG).

2. Date of signature by the State Union of Serbia and Montenegro.

3. They were assisted in their work by Mr Veith Mehde, consultant and member of the Group of Independent Experts on the European Charter of Local Self-Government, and the Congress secretariat.