

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Recommendation 384 (2016)¹ Local and regional democracy in France

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 states 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 Statutory Resolution [CM/Res\(2011\)2](#) relating to the Congress, according to which “[t]he 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. the explanatory memorandum to this recommendation on local and regional democracy in France.

2. The Congress notes that:

a. France acceded to the Council of Europe on 5 May 1949. It signed the European Charter of Local Self-Government (ETS No. 122, hereafter “the Charter”) on 15 October 1985 and ratified it on 17 January 2007.

b. France 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, but has not yet ratified it. It is also a party to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 106), which it ratified on 14 February 1984. On 29 January 2013, it ratified 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). However, it has not signed the Convention on the Participation of Foreigners in Public Life at Local Level (ETS No. 144).

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 review the situation with regard to local and regional self-government in France in the light of the Charter. It tasked Mr Jakob (Jos) Wiene (Netherlands, L, EPP/CCE) and Ms Gudrun Mosler-Törnström (Austria, R, SOC), the rapporteurs on France, with drawing up a report on local and regional democracy in France and submitting it to the Congress.²

d. the monitoring visit took place from 26 to 29 May 2015 in Paris, Reims, Ay-Champagne and Châlons-en-Champagne. During the visit, the Congress delegation met with representatives of various political institutions such as the Senate, the Ministry of Decentralisation, State Reform and Public Service, the Ministry of Finance and Public Accounts and the Ministry for Overseas France; it also met with representatives of judicial institutions (the Court of Auditors), the ombudsman’s office and local and regional authorities. The detailed programme of the visit is appended to the explanatory memorandum.

e. the delegation wishes to thank the Permanent Representation of France to the Council of Europe and the persons met during the visit for their readiness to assist and the information they supplied. The delegation also thanks the French delegation to the Congress and the national associations of local and regional authorities, which contributed to the organisation and smooth running of the visit.

3. The Congress notes with satisfaction:

a. the constitutional revision of 2003, which enshrines the principle of a decentralised French Republic and which is the outcome of a long process of decentralisation initiated by the laws of 1982;

b. the development of co-operation between local and regional authorities via, for example, inter-municipal common interest associations and European Cross-Border Co-operation Groupings, a practice which warrants dissemination in other Council of Europe member States;

c. the efforts made by France with regard to the financing of local authorities, *inter alia* by institutionalising minimum levels for local authorities’ own resources, which have fostered greater financial autonomy;

d. the initiatives launched in the larger cities, notably Paris, to foster direct citizen participation, including participatory budgeting;

e. Law No. 2015-366 of 31 March 2015, designed to facilitate the exercise of local electoral mandates through the provision of appropriate financial compensation, which is in line with the requirements of Article 7, paragraph 2 of the Charter.

4. The Congress expresses its concern regarding:

a. the procedures employed for passing Law No. 2015-29 of 16 January 2015 on regional boundaries, regional and departmental elections and changes to the election timetable, in that there was no effective prior consultation of the regions within the meaning of Article 4, paragraph 6 of the Charter, read together with Article 5;

b. the inadequate consultation of local and regional authority representatives on decisions concerning them directly and the insufficient involvement of representatives of the associations of local authorities, particularly in financial matters (Article 4, paragraph 6 and Article 9, paragraph 6);

c. the overlapping of responsibilities due largely to the complex structure of sub-national levels of government, which accounts for the fact that many small municipalities, particularly in rural areas, are unable to carry out certain tasks and are forced to delegate responsibility to the inter-municipal level;

d. the abolition of the general clause of competence, which was approved by the Senate on 15 August 2015 and which restricts the local authorities' prerogatives;

e. the transfer back to the national level of responsibilities initially devolved to the local authorities in the field of tax policy, which is leading to a gradual recentralisation and a significant shortfall in local authority resources in relation to their responsibilities;

f. the current financial equalisation system, which does not meet the objectives expected of an equalisation mechanism, namely redistribution of resources among authorities to compensate for the financial disparities between them.

5. In the light of the foregoing, the Congress asks the Committee of Ministers to call on the French authorities to:

a. draw up legislation setting out the procedures for consulting local and regional authority representatives to ensure that they are effectively consulted, that is, in due time and in an appropriate manner, on all questions directly concerning those authorities, including financial questions, and a fortiori on changes to their boundaries (Article 4, paragraph 6, Article 5 and Article 9, paragraph 6);

b. revise the breakdown of responsibilities between the four sub-national levels of government so as to avoid all overlapping of responsibilities by strengthening the arrangements

already provided for in Law No. 2015-991 of 7 August 2015 on the new territorial organisation of the republic (Article 4, paragraph 4);

c. revise the legislation currently in force on the conditions governing local taxation and, in particular, the setting of tax rates by local authorities in order to give these authorities greater freedom of action with regard to their own resources and thus avoid any trend towards recentralisation in this field (Article 9, paragraph 3);

d. consider reintroducing the general clause of competence in order to respect the local authorities' right to full discretion in the exercise of their initiatives for any matter not excluded from their field of competence by law (Article 4, paragraph 2);

e. revise the financial equalisation system so that it actually serves its purpose of reducing financial disparities between local authorities and meets the requirements of transparency, by promoting a system of equalisation between levels of government (Article 9, paragraph 5);

f. consider ratifying Articles 3, paragraph 2, and 7, paragraph 2, of the Charter insofar as the relevant legislative provisions in force in France render the *de lege* situation consistent with the requirements of these articles.

6. The Congress calls on the Committee of Ministers of the Council of Europe to take account of this recommendation on local and regional democracy in France and the accompanying explanatory memorandum in its activities relating to this member State.

1. Debated and adopted by the Congress on 22 March 2016, 1st Sitting (see Document [CG30\(2016\)06-final](#), explanatory memorandum), co-rapporteurs: Jakob (Jos) Wienen, Netherlands (L, EPP/CCE) and Gudrun Mosler-Törnström, Austria (R, SOC).

2. They were assisted by Prof. Nikolaos-Komninos Chlepas, member of the Group of Independent Experts on the European Charter of Local Self-Government, and the Congress secretariat.