

## 37th SESSION

# Local and regional democracy in the Russian Federation

Recommendation 440 (2019)<sup>1</sup>

1. The Congress of Local and Regional Authorities of the Council of Europe refers to:
  - a. Article 2, paragraph 1.b, of the Statutory Resolution CM/Res(2015)9 relating to the Congress, stipulating 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 Statutory Resolution CM/Res(2015)9 relating to the Congress, 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. Chapter XVII of the Rules and Procedures of the Congress on the organisation of monitoring procedures;
  - d. The guidelines for civil participation in political decision making, adopted by the Committee of Ministers on 27 September 2017;
  - e. Recommendation CM/Rec(2018)4 of the Committee of Ministers to member States on the participation of citizens in local public life, adopted on 21 March 2018;
  - f. Recommendation CM/Rec(2019)3 of the Committee of Ministers to member States on supervision of local authorities’ activities, adopted on 4 April 2019;
  - g. Congress Recommendation 297 (2010) on local and regional democracy in the Russian Federation;
  - h. the explanatory memorandum on local and regional democracy in the Russian Federation.
2. The Congress points out that:
  - a. the Russian Federation joined the Council of Europe on 28 February 1996. It signed the European Charter of Local Self-Government (hereafter “the Charter”) on 28 February 1996 and ratified it in full on 5 May 1998, with entry into force on 1 September 1998;
  - b. the Russian Federation has not 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);

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<sup>1</sup> Debated and adopted by the Congress on 30 October 2019, 2nd sitting (see Document CG37(2019)11, explanatory memorandum), co-rapporteurs: Jakob WIENEN, Netherlands (L, EPP/CCE) and Stewart DICKSON, United Kingdom (R, ILDG).

c. the state of local and regional democracy in the Russian Federation was the subject of a Congress monitoring report in 2010. The Committee on the Honouring of Obligations and Commitments by member States of the European Charter of Local Self-Government (Monitoring Committee) decided to examine the situation of local and regional democracy in Russia in the light of the Charter. It instructed Mr Jakob WIENEN (Netherlands, EPP/CCE) and Mr Stewart DICKSON (United Kingdom, ILDG) as co-rapporteurs to update the above-mentioned report on local and regional democracy in Russian Federation and submit it to the Congress. The delegation was assisted by Professor Dr Nikolaos-Komninou CHLEPAS, member of the Group of Independent Experts on the European Charter of Local Self-Government and by the Congress Secretariat;

d. the monitoring visit took place in two parts, from 23 to 25 October 2018 and from 5 to 7 March 2019 respectively. During both visits, the Congress delegation met the representatives of various institutions at all levels of government. The detailed programmes of both visits are appended to the present report;

e. the co-rapporteurs wish to thank the Permanent Representation of the Russian Federation to the Council of Europe and all those whom they met during the visit for their readiness to assist the delegation and for the information they provided.

3. the Congress notes with satisfaction that in the Russian Federation:

a. the principle of local self-government is recognised both in the Constitution of the Russian Federation and in ordinary legislation;

b. the Constitutional Court of the Russian Federation applies the Charter's provisions in its case-law;

c. the legislation provides for a great variety of instruments of citizens' participation in local public affairs, such as public hearings and participatory budgeting, local referendums, councils of elders;

d. some positive changes have been introduced in response to Congress Recommendation 297 (2010) on local and regional democracy in the Russian Federation, such as the reduction of minimum numbers of members for registration of political parties, the registration of candidates supported by associations and groups and the re-introduction of direct election of governors in most of the federal subjects of the Russian Federation;

e. the respect of cultural and educational rights of different ethno-linguistic groups at regional and local levels in the Republics of Tatarstan and Chuvash could serve as an example of good practice with regard to preserving and protecting cultural diversity.

4. However, the Congress expresses its concern regarding:

a. the limited freedom of independent and opposition candidates to stand for local and regional elections, as a result of legal requirements for candidates to gather a considerable number of signatures in support of their candidatures and the introduction of a "municipal filter" of candidatures (i.e. endorsement by municipal councillors) at the level of federal subjects (Article 3.1-3.2);

b. a low share of public affairs under the own responsibility of local self-government, and a particularly problematic situation with Moscow municipalities which are deprived of basic functions and resources (Article 3.1);

c. the legal ability of governors to substitute mayoral direct elections with the system of appointment of heads of municipality which curtails the electoral right of residents and the disproportional role of

governors in this process (through appointing 50% of selection board members) which undermines the political autonomy of local authorities (Articles 3.1, 3.2 and 7);

*d.* unclear division of competences and their sharing by several levels of government that causes overlapping of responsibilities and limits the local authorities' discretion to exercise their initiatives (Articles 4.2, 4.4);

*e.* upscaling of competences of communities, in particular of rural settlements and Moscow municipalities, to higher levels of government authorised on the basis of federal and *ad-hoc* regional legislations which has resulted, inter alia, in a multiple asymmetry between municipalities of the same type in different regions, the erosion of the core competence of rural communities in violation of the subsidiarity principle and the degradation of quality of service they can deliver in the interest of their citizens (Article 3.1, 4.3 and 4.4);

*f.* disproportional delegation of tasks to local authorities to the detriment of their own functions and local authorities' limited discretion to adapt the exercise of delegated powers to local conditions because of partial delegation of power with partial funding from a higher-level authority (Article 4.5, 9.2.);

*g.* the insufficient use in practice of existing mechanisms and procedures of consultation by some constituent entities (Article 4.6), notably on the allocation of redistributed resources (Article 9.6) and on the changes of local authorities' boundaries (Article 5);

*h.* the right of regions to determine internal administrative structures of local authorities which, in several regions, considerably restricts local organisational autonomy (Article 6.1);

*i.* the right of governors to dismiss mayors which undermines the principle of free exercise of functions by local elected representatives (Article 7.1);

*j.* the absence of a comprehensive and transparent system of administrative supervision and the risk of disproportional use by the Prosecutor's office of anti-corruption verification as a kind of a priori control over local authorities' decisions (Article 8.3);

*k.* inadequate financial resources available to local authorities, notably municipalities in Moscow city and rural areas (Article 9.1) and the tendency in some regions towards transferring to local authorities delegated tasks without commensurate funding (Article 9. 2).

5. In light of the above, the Congress requests that the Committee of Ministers invite the authorities of the Russian Federation to:

*a.* abolish the legal provision requiring considerable numbers of signatures as a precondition for registration of candidates and the "municipal filter" for candidatures at the level of constituent entities in order to guarantee equal access to electoral rights to independent and opposition candidates;

*b.* increase share local authorities' notably in Moscow and Saint Petersburg, in the regulation and management of public affairs;

*c.* amend the legislation to guarantee mayoral elections by voters;

*d.* clarify the delimitation of competences based on the subsidiarity principle and depart from the principle of shared competences so as to avoid overlapping of responsibilities and to enable local authorities to carry out all the functions assigned to them, especially in smaller settlements;

*e.* remove the legal provisions allowing for upscaling of municipal competences to guarantee local autonomy in the sphere of local government responsibility and consider, where necessary, an alternative of inter-municipal co-operation;

*f.* refrain from overloading the local level with those delegated tasks which can be better performed at the higher level of governance;

*g.* implement the existing legislative provisions on consultation of local authorities on all issues that concern them directly to ensure the conformity of the practice of consultation with Article 4.6, as well as Article 5 on boundary changes, notably when "town districts" are established in rural areas;

*h.* review the legislation to empower local authorities with the right to determine internal structures and to adapt them to local needs for effective management;

*i.* remove the legal provisions providing for dismissal of mayors by governors;

*j.* establish a comprehensive transparent system of administrative supervision, which may vary according to the different constituent entities of the Russian Federation, and clarify per law the limits of the anti-corruption control by Prosecutors in a way that will also ensure compliance with the principle of proportionality;

*k.* ensure that local authorities, notably municipalities in Moscow city and rural areas, dispose of adequate financial resources of their own and accompany the transfer to delegated tasks from higher level government by concomitant funding thus implementing the commensurability principle in practice;

*l.* further develop relevant legislation, notably on budgetary issues, mutual financing and privatisation to encourage the implementation in practice of independent initiatives of inter-municipal co-operation;

*m.* consider the possibility of creating an association of regions which would seek to promote the regional corporate interests in addition to representation of each region in the Federation Council;

*n.* sign and ratify the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority.

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