

# THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

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## Recommendation 440 (2019)<sup>1</sup> Local and regional democracy in the Russian Federation

1. The Congress of Local and Regional Authorities of the Council of Europe refers to:

*a.* Article 2, paragraph 1 *b*, of the Committee of Ministers' Statutory Resolution CM/Res(2015)9 relating to the Congress of Local and Regional Authorities of the Council of Europe and the revised Charter appended thereto, which stipulates 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 aforementioned Statutory Resolution CM/Res(2015)9, which stipulates that "[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.* 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 (CM(2017)83);

*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 (ETS No. 122, 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);

*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 the Russian Federation in the light of the Charter. It instructed Jakob Wienen and Stewart Dickson as co-rapporteurs to update the above-mentioned report on local and regional democracy in Russian Federation and submit the new report to the Congress. The delegation was assisted by Professor Dr Nikolaos-Komninos 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 report in document CG37(2019)11;

*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 for citizens' participation in local public affairs, such as public hearings and participatory budgeting, local referendums and councils of elders;

*d.* some positive changes have been introduced in response to the above-mentioned Congress Recommendation 297 (2010), such as the reduction in the minimum number of members required for the registration of political parties, the registration of candidates supported by associations and groups, and the reintroduction 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 requirement for candidates to gather a considerable number of signatures in support of their candidature and the introduction of a "municipal filter" of candidatures (which

requires the endorsement by municipal councillors) at the level of federal subjects (Articles 3.1 and 3.2 of the Charter);

*b.* the low proportion of public affairs under the own responsibility of local self-government, and the particularly problematic situation of 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 a system of appointment by 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.* the unclear division of competences and their sharing between several levels of government that causes overlapping of responsibilities and limits the local authorities' discretion to exercise their initiative (Articles 4.2 and 4.4);

*e.* the transfer of competences of local communities, in particular rural settlements and Moscow municipalities, to higher levels of government on the basis of federal and ad hoc regional legislation, 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 a degradation in the quality of services they can deliver in the interest of their citizens (Articles 3.1, 4.3 and 4.4);

*f.* the disproportionate 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 and funding from a higher-level authority (Articles 4.5 and 9.2.);

*g.* the insufficient use in practice of existing mechanisms and consultation procedures 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 the 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 disproportionate use of anti-corruption controls by the prosecutor's office as a form of a priori control over local authorities' decisions (Article 8.3);

*k.* the 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 delegated tasks to local authorities 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 a considerable number 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 for independent and opposition candidates;

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

*c.* amend the legislation to guarantee the election of mayors 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 the transfer of municipal competences to a higher authority, in order to guarantee local autonomy in the sphere of local government responsibility, and consider, where necessary, inter-municipal co-operation as an alternative;

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

*g.* implement the existing legislative provisions on consultation of local authorities on all issues that concern them directly so as to ensure the conformity of the practice of consultation with Article 4.6 of the Charter, as well as with 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 their 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 in law the limits to the anti-corruption control exercised 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 in rural areas, dispose of adequate financial resources of their own and that the transfer of delegated tasks from a higher level of government is accompanied by concomitant funding, thus implementing the commensurability principle in practice;

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

*m.* consider the possibility of creating an association of regions, which would seek to promote regional common interests in addition to the 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 (CG37(2019)11) in their activities relating to this member State.

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1. 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).