

# THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

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## Recommendation 460 (2021)<sup>1</sup> Monitoring of the application of the European Charter of Local Self-Government in Bulgaria

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

a. Article 2, paragraph 1.b, of the Charter of the Congress of Local and Regional Authorities of the Council of Europe appended to Statutory Resolution CM/Res(2020)1 of the Committee of Ministers, 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 1, paragraph 3, of the aforementioned charter, 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 the effective implementation of the principles of the European Charter of Local Self-Government”;

c. Chapter XVIII of the Rules and Procedures of the Congress on the organisation of monitoring procedures;

d. the Congress priorities for 2021-2022, in particular priority 6.b that concerns the quality of representative democracy and citizen participation;

e. the Sustainable Development Goals (SDG) of the United Nations 2030 Agenda for Sustainable Development, in particular Goals 11 on sustainable cities and communities and 16 on peace, justice and strong institutions;

f. the Guidelines for civil participation in political decision making, adopted by the Committee of Ministers on 27 September 2017;

g. 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;

h. Recommendation CM/Rec(2019)3 of the Committee of Ministers to member States on supervision of local authorities’ activities, adopted on 4 April 2019;

i. Congress Recommendation 310 (2011) on local and regional democracy in Bulgaria;<sup>2</sup>

j. the explanatory memorandum to the present recommendation on the monitoring of the application of the European Charter of Local Self-Government in Bulgaria.

2. The Congress points out that:

a. Bulgaria joined the Council of Europe on 7 May 1992; it signed the European Charter of Local Self-Government (ETS No. 122, hereinafter “the Charter”) on 3 October 1994 and ratified it on 10 May 1995, declaring itself bound by all the provisions of the Charter except for Article 7, paragraph 2. The Charter entered into force with respect to Bulgaria on 1 September 1995. Following the adoption of a law by the National Assembly of the Republic of Bulgaria on 11 July 2012, Bulgaria withdrew its declaration with regard to Article 7, paragraph 2, and is now bound by all articles and paragraphs of Part I of the Charter;

b. The Committee on the Honouring of Obligations and Commitments by Member States of the European Charter of Local Self-Government (hereinafter referred to as the “Monitoring Committee”) decided to examine the situation of local democracy in Bulgaria in the light of the Charter. It instructed Ms Bryony Rudkin and Ms Randi Mondorf with the task of preparing and submitting to the Congress a report on the implementation of the Charter in Bulgaria;

c. The monitoring took place remotely on 14 and 15 December 2020. During its visit, the Congress delegation met the representatives of various institutions at all levels of government. The detailed programme of the remote visit is appended to the explanatory memorandum;

d. The co-rapporteurs wish to thank the Permanent Representation of Bulgaria to the Council of Europe and all those they met during the meetings.

3. The Congress notes with satisfaction:

a. the considerable progress made in Bulgaria as a result of the implementation of a decentralisation strategy including the devolution of powers and the transfer of responsibilities to local level, especially in the fields of education, public health and social services;

b. the ratification of Article 7, paragraph 2, of the Charter, which means that Bulgaria is now bound by all articles of the Charter;

c. the institutionalisation of several consultation procedures on matters related to local authorities and the active participation of the National Association of Municipalities of the Republic of Bulgaria in the consultation;

d. the ratification of 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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1. Debated and adopted by the Congress on 17 June 2021, 2nd sitting (see Document CG(2021)40-20, explanatory memorandum), rapporteurs: Bryony RUDKIN, United Kingdom (L, SOC/G/PD) and Randi MONDORF, Denmark (R, ILDG).

2. Debated and adopted by the Congress on 18 October 2011, 1st sitting (see Document CG(21)14, explanatory memorandum), rapporteurs: A. TORRES PEREIRA, Portugal (L, EPP/CCE) and J. SAUWENS, Belgium (R, EPP/CCE).

e. the establishment of regional development councils where representatives of local authorities participate in decision making on regional development.

4. The Congress expresses its concerns about the following issues:

a. the overlapping of competences and fragmentation of responsibilities that reduces the decision-making powers of local authorities in delivering the public services under their own responsibility (Article 4, paragraph 4);

b. the lack of discretion of local authorities with regard to adapting the exercise of delegated powers to local conditions (Article 4, paragraph 5);

c. a low level of local financial autonomy as a result of the strong dependence by Bulgarian municipalities on financial transfers from the State budget and the lack of municipalities' discretion in defining spending priorities when relevant activities are financed through the State transfers (Article 9, paragraphs 1 and 7);

d. the lack of commensurate financial resources available to local authorities to perform their functions, while in practice the municipalities carry a heavy burden of tasks without sufficient funding. The system of local finances cannot be characterised as buoyant enough to ensure that delegated tasks are matched by necessary funds (Article 9, paragraphs 2 and 4);

e. a low share of municipal resources deriving from local taxes and charges (Article 9, paragraph 3)

f. the restrictive rules applied to local budgeting that constrain the budgetary autonomy of local self-government (Article 9, paragraph 1)

g. the lack of specialist qualified staff, in particular in smaller municipalities (Article 6, paragraph 2).

5. In light of the foregoing, the Congress requests that the Committee of Ministers invite the authorities in Bulgaria to:

a. clarify the distribution of competences allocated to different levels of government in order to eliminate overlapping of responsibilities;

b. increase local authorities' discretion to adapt the exercise of delegated powers to local conditions;

c. reduce local authorities' dependence on financial transfers from the State budget by increasing the share of local taxes (or local share of taxes) and charges in local revenue;

d. introduce an objective, adaptive, reliable and accurate system to calculate resources commensurate with the cost of performing municipal tasks;

e. revise legislation to increase local government fiscal autonomy by enlarging local tax-levying powers;

f. simplify the rules applied to local budgeting in order to lighten the budgetary supervision and by doing so provide more budgetary autonomy;

g. provide for an efficient and accessible system for training of local employees to strengthen the administrative capacity of municipalities;

h. introduce the right of constitutional recourse for local authorities to be able to apply directly to the Constitutional Court whenever a law violates their constitutional status, the Charter or both.

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 the monitoring of the application of the European Charter of Local Self-Government in Bulgaria and the accompanying explanatory memorandum CG(2021)40-20 in their activities relating to this member State.