

34th SESSION

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Fact-finding mission on the situation of local elected representatives in the Republic of Moldova

Recommendation 411 (2018)¹

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(2015)9 relating to the Congress, 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 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 the monitoring procedures;

d. Congress Resolution 420 (2017) and the explanatory memorandum on “Local democracy in the Republic of Moldova: clarification of the conditions surrounding the suspension of the Mayor of Chişinău”.

e. The appended explanatory memorandum appended hereto on the Fact-finding mission on the situation of local elected representatives in the Republic of Moldova.

2. The Congress points out that:

i. The Republic of Moldova acceded to the Council of Europe on 13 July 1995. It signed the European Charter of Local Self-Government (ETS No. 122, “the Charter”) on 2 May 1996 and ratified it on 2 October 1997 without any reservations. The Charter came into force in respect of the Republic of Moldova on 1 February 1998;

ii. The Republic of Moldova 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);

iii. The Monitoring Committee of the Congress of Local and Regional Authorities of the Council of Europe instructed the co-rapporteurs on local and regional democracy Gunn Marit Helgesen (Norway, R, EPP/CCE) and Marc Cools (Belgium, L, ILDG),² to carry out a fact-finding visit to Moldova in order to clarify the situation of local elected representatives in this country;

¹ Debated and adopted by the Congress on 27 March 2018, 1st sitting (see Document [CG34\(2018\)09](#), explanatory memorandum), co-rapporteurs: Marc COOLS, Belgium (L, ILDG) and Gunn Marit HELGESEN, Norway (R, EPP/CCE).

² They were assisted by Prof. Angel Manuel MORENO MOLINA, Chair of the Group of Independent Experts on the European Charter of Local Self-Government, and the Congress Secretariat.

iv. The fact-finding visit took place on 13 December 2017 in Chisinau. During the visit, the Congress delegation met with Dorin Chirtoaca, with local elected representatives as well as representatives of political parties, with members of the Moldovan Delegation to the Congress and with representatives of the State Chancellery, the Chair of the Central Electoral Commission and the President of the Constitutional Court.

3. The delegation wishes to thank the Permanent Representation of the Republic of Moldova to the Council of Europe and the interlocutors who met with the delegation, for their open and constructive discussions.

4. The Congress expresses its concern with regard to:

a. several violations of the Charter identified in Resolution 420 (2017) which are still valid, notably with respect to Article 8 paragraph 3, Article 3 paragraph 2, and Article 7 paragraph 1, in particular as regards the conditions of suspension of the general mayor of Chisinau and the consequences that this situation entails on the dysfunction of local governance in the capital city, as stressed in the abovementioned resolution;

b. the lack of clear legal basis to suspend a local elected representative which also derives from contradictory provisions in domestic law ; the same prevails as regards local recall referenda and the conditions for the suspended mayor to campaign;

c. the fact that a large number of criminal prosecutions have been conducted against local elected representatives on the grounds of the anti-corruption fight and which appear to lead to problematic features as regards European standards;

d. the lack of consultation with the Congress of Local Authorities of Moldova (CALM);

e. the overall situation of local democracy in Moldova which has deteriorated substantially since the last Congress monitoring report adopted in 2012.

5. In the light of the foregoing, the Congress recommends that the Moldovan authorities:

a. examine the Court proceedings against local elected representatives in order to ensure that they are not constitutive of judicial harassment and do not prevent local elected representatives from managing their municipalities freely;

b. revise the Moldovan legislation (including the Electoral code) in order to issue clear and non-contradictory provisions and ensure their conformity with European standards, as regards the procedure of suspension of local elected representatives as well as local recall referenda and the conditions for campaigning;

c. find the correct equilibrium between local public interest and the fight against corruption in order to maintain a good level of local governance in the light of the Charter and other European standards and allow local elected representatives to exercise their political mandate freely whilst also benefiting from the presumption of innocence;

d. resume the dialogue with the national Congress of Local Authorities of Moldova in the framework of a regular formalised effective consultation process, in accordance with the Charter and Resolution 328 (2012);

e. enter into a constructive dialogue with the Congress rapporteurs on local and regional democracy on Moldova in the framework of the monitoring visit scheduled for spring 2018, in order to improve rapidly the situation as regards local democracy in Moldova, and in particular the situation of local elected representatives in this country.

6. The Congress calls on the Committee of Ministers to transmit this recommendation to the Moldovan authorities and to take it into account, as well as the accompanying explanatory memorandum, in its activities relating to this member State.

7. The Congress recommends that the Parliamentary Assembly, the European Commission on Democracy through Law (“Venice Commission”) and the Commissioner for Human Rights take into account these recommendations within the framework of their activities in this country.

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Local and regional democracy in Latvia

Recommendation 412 (2018)¹

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 “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 appended explanatory memorandum on local and regional democracy in Latvia.

2. The Congress points out that:

a. Latvia joined the Council of Europe on 10 February 1995. It signed and ratified the European Charter of Local Self-Government (ETS 122, hereafter “the Charter”) on 5 December 1996. The Charter came into force in Latvia on 1 April 1997;

b. In accordance with Article 12, paragraph 1, of the Charter, Latvia declared that it was not bound by Article 9, paragraph 8, of the Charter;

c. The Monitoring Committee decided to examine the situation of local and regional democracy in Latvia in the light of the Charter. It instructed Marc Cools (Belgium, ILDG) and Xavier Cadoret (France, SOC), with the task of preparing and submitting to the Congress a report on local and regional democracy on Latvia. The delegation was assisted by Prof. Angel Moreno Molina, Chair of the Group of Independent Experts on the European Charter of Local Self-Government, and the Congress Secretariat;

d. The monitoring visit took place from 12 to 14 September 2017. During the visit, the Congress delegation met the representatives of various institutions. The detailed programme of the visit is set out in the appendix to this document;

¹ Debated and adopted by the Congress on 27 March 2018, 1st sitting (see Document [CG34\(2018\)11](#), explanatory memorandum), co-rapporteurs: Xavier CADORET, France (L, SOC) and Marc COOLS, Belgium (L, ILDG).

e. The co-rapporteurs wish to thank the Permanent Representation of Latvia to the Council of Europe and all those whom it met on the visit for their readiness to assist the delegation and for the information they so willingly supplied.

3. The Congress notes with satisfaction that:

- a. The present situation of local self-government deserves an overall positive assessment;
- b. State intervention in local affairs is strictly limited and regulated by the law, therefore fulfilling the requirements of the Charter;
- c. Local authorities enjoy an extensive autonomy and a notable realm of competences;
- d. There is an honest, fruitful and vigorous dialogue and negotiation pattern between the central government and the local authorities;
- e. The case-law of the Constitutional Court includes frequent references to the Charter, thus ensuring its applicability;
- f. The inter-municipal co-operation is good in general terms.

4. The Congress notes that the following points call for particular attention:

- a. the landscape of local finances is unstable, the revenues lack predictability in the long range, and the fiscal autonomy of local authorities is weak. In this sense, there is not a real system of “local taxes” in the technical sense of the term;
- b. the system of equalisation could be improved, since the contribution of the State to the equalisation Fund is too low. And the specific situation of small, rural municipalities, is not adequately taken into consideration in the current system of local finances;
- c. even if the system of consultation is good in general terms, in too many cases the deadline for receiving the local authorities’ comments and suggestions on proposed measures is too short, thus limiting the capacity of local authorities to make meaningful and reasoned comment;
- d. in the field of “autonomous” functions, there is a pattern of “over-regulation”, which reduces *de facto* the discretion and autonomy of local authorities in discharging their competences. To this end, the system of local competences should also be clarified;
- e. the category of the population called “non-citizens” which is still part of Latvian society and is not allowed to vote for local elections.

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

- a. ensure that the forthcoming tax reforms guarantee local authorities a level of resources at least equivalent to the one they have today, excluding the transfer of new competences, enhance the fiscal autonomy of local authorities and permit local authorities to better predict and plan their financial resources;
- b. increase the contribution of the State to the equalisation fund and better take into account the specificities of small rural municipalities in the general system of local finances;
- c. grant longer time-spans and deadlines for consultation mechanisms of local authorities in order to make them more effective and give local authorities the capacity to better react to all matters dealt with by the government and which concern them;

d. clarify the system of competences in order to avoid overlapping and ensure that local authorities have full discretion to manage their own competences, with concomitant finances;

e. grant voting rights to local elections for non-citizens to guarantee a better exercise of political rights by this part of the population;

f. 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, of 16 November 2009 (CETS No. 207).

34th SESSION

Observation of municipal elections in “The former Yugoslav Republic of Macedonia” (15 October 2017)

Recommendation 413 (2018)¹

1. Following the invitation from the Minister of Foreign Affairs of “The former Yugoslav Republic of Macedonia”, Nikola Dimitrov, dated 5 September 2017, to observe the municipal elections held in the country on 15 October 2017, the Congress of Local and Regional Authorities refers to:

a. Article 2, paragraph 4 of the Committee of Ministers’ Statutory Resolution CM/Res(2015)9 on the Congress of Local and Regional Authorities of the Council of Europe;

b. the principles laid down in the European Charter of Local Self-Government (ETS No. 122) which was ratified by “The former Yugoslav Republic of Macedonia” in June 1997 and 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) ratified in September 2015;

c. Chapter XVIII of the Rules and Procedures on the practical organisation of election observation missions.

2. It reiterates the fact that genuinely democratic local and regional elections are part of a process to establish and maintain democratic governance and observation of political participation at territorial level is a key element in the Congress’ role as guardian of democracy at local and regional level.

3. The Congress welcomes the fact that the 15 October 2017 municipal elections were well organised, by and large, and in line with international standards, despite some procedural irregularities, and that Election Day was, overall, held in an orderly and calm matter, without major incidents, preceded by a competitive campaign.

4. Although the overall political situation continued to be characterised by the deep division and politicisation of the country along ethnic and party lines, the Congress notes a clear improvement in the campaign atmosphere, in which the municipal elections took place.

5. It recognises that progress was made, in particular, in respect of more balanced media coverage of the campaign, respect of freedom of the media and better working conditions for journalists, despite further need for their professionalisation and empowerment.

¹ Debated and approved by the Chamber of Local Authorities on 28 March 2018 and adopted by the Congress on 28 March 2018, 2nd sitting (see Document [CPL34\(2018\)02](#), explanatory memorandum), rapporteur: Karim VAN OVERMEIRE, Belgium (R, NR).

6. In light of the above, the Congress suggests further improvements to be made in respect of the general electoral process and therefore invites the authorities of “The former Yugoslav Republic of Macedonia” to:

a. strengthen the integrity of the decision-making process at the level of the State Election Commission (SEC) in order to make decisions comprehensible to the public, fully transparent and further de-politicise the SEC;

b. improve the legal conditions for effective redress in electoral disputes, so that all complaints and appeals are handled in a timely and impartial manner by the relevant electoral authorities and that all decisions can be appealed to a competent court of higher level;

c. organise systematic training of the electoral staff in order to ensure the coherent implementation of electoral rules, notably with regard to the proper sealing of ballot boxes, the systematic signing of voters’ lists or prescribed counting procedures;

d. ensure a level playing field for all contestants by making certain that there is a clear separation of State and party interests and preventing misuse of administrative resources during electoral processes;

e. and, in addition to the quota requirement, to ensure the *de facto* participation of women in grassroots politics, including ensuring that female candidates have similar opportunities to run for the positions of Mayors and Heads of Councils;

7. Furthermore, the Congress encourages the authorities of “The former Yugoslav Republic of Macedonia” to pay further attention to the issue of accuracy of voters’ lists, including through the update of the population census.

8. In conclusion, the Congress reaffirms the need for Municipalities to have access to adequate financial resources in general, and, more specifically, with regard to their capacity to organise local elections.

34th SESSION

Unaccompanied refugee children: the role and responsibilities of local and regional authorities

Recommendation 414 (2018)¹

1. Since 2015 more than a million children have arrived in Council of Europe) member States seeking refuge from war, conflict and poverty. Although numbers dropped in 2017, children and their families are still risking hardship, violence and abuse to find a better life in Europe. However, because children's services in most States were not prepared for the scale of the influx or the scope of the issues they have to address, the majority of children have not yet achieved family stability and security. On the contrary, the lack of an appropriate response in many countries is putting children at risk and undermining social cohesion.

2. The Council of Europe has long recognised that children affected by migration are one of the most vulnerable groups in Europe, and acknowledged this fact in its *Strategy for the Rights of the Child (2016-2021)*.² The Council of Europe has offered support and guidance to member States' efforts to protect refugee children through a series of papers and reports, culminating in the conference of ministers' adoption of the *Action Plan on protecting refugee and migrant children in Europe* in May 2017 in Nicosia, Cyprus.

3. States across Europe are still adapting legislation, policies and strategies to the consequences of the increased flow of refugees into Europe since 2015. The response-planning for refugees usually falls under the remit of central government authorities in line with national asylum law and policies. The rising numbers of women and children involved, as well as the longer periods of time they are spending in the reception country before a decision on their asylum claim is taken, inevitably puts pressure on local child-related agencies to integrate them into mainstream services, and support families' independent living outside asylum and refugee centres.

4. Besides provision of clear, explicit and enabling legislative and policy frameworks at national and local level, other factors that contribute to the success or failure of various responses to refugee children's needs include public attitudes towards refugees; the strength of the country's child-rights institutions; societies' experience of migration and asylum; the perceived value of migrants to the local economy and the financial, human and other resources available.

5. The Congress of Local and Regional Authorities of the Council of Europe has underlined the special attention that should be given to the interests and fundamental rights of refugees and migrants and adopted a report entitled "From reception to integration: the role of local and regional authorities facing migration" in March 2017.³ The aim of the present recommendation is to propose measures that can further strengthen the protection of refugee children and unaccompanied minors, and ensure that the time spent by the latter in the host countries is a positive experience.

¹ Debated and adopted by the Congress on 28 March 2018, 2nd sitting (see Document [CG34\(2018\)13](#), explanatory memorandum), rapporteur: Nawel RAFIK-ELMRINI, France (L, SOC).

² *Council of Europe Strategy for the Rights of the Child (2016-2021)* (March 2016) Strasbourg, p9

³ Resolution 411-2017 Recommendation 394-2017):

https://search.coe.int/congress/Pages/result_details.aspx?ObjectId=0900001680703e5e

6. In light of the above, the Congress invites the member States of the Council of Europe to:
- a. urgently undertake an assessment of national migration and asylum processes to determine where children are most at risk and where they are most in need of protection (as defined by the United Nations Convention on the Rights of the Child), and follow it by a joint programme of action between child protection and migration/asylum bodies to eliminate risks and strengthen safeguards;
 - b. urgently agree, at the international level, on a common definition of 'detention' and map all locked facilities on their territories, making sure they are subject to international standards of care and protection, regular external oversight and open public accountability and that all children held within them are able to access free legal advice and support, and develop alternatives to detention for families and suitable alternative care arrangements for unaccompanied and separated children;
 - c. set policies and standards that ensure consistent provision of quality, cost-effective services that meet children's needs and respect their rights;
 - d. commit to accepting unaccompanied minors or separated children and work together to fast-track asylum applications from vulnerable children and families, recognising them as a priority group in all national health, education and protection strategies and Action Plans, and allocating resources accordingly;
 - e. clearly and explicitly define what constitutes the core package of entitlements for migrant or refugee children, regardless of their legal status in order to prevent restrictions on access due to inconsistent treatment or confusion about entitlements, and make that information available to incoming refugees and asylum-seekers;
 - f. ensure, in a similar vein, that the minimum education package encompasses immediate access to mainstream schooling and provision of appropriate language and learning support services, including teaching assistance;
 - g. ensure that refugee children have full access to the justice system and are provided with proper and adequate legal representation at all stages of the asylum process, in order to allow guardians to focus on guidance, care and support of the child;
 - h. enable local child protection agencies across Europe to take proactive action to set common standards for reception centres, transit and detention facilities in their area, develop protocols, reporting and accountability mechanisms and provide on-going training and support;
 - i. encourage these agencies to develop new community-based, child-focused services, and promote rights-based models of work that draw on the strengths and resilience of local and refugee communities.

34th SESSION

Local democracy in Andorra

Recommendation 415 (2018)¹

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(2015)9 relating to the Congress, 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 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 the monitoring procedures;

d. the present explanatory memorandum on local democracy in Andorra, drawn up by the rapporteurs, Ms Gaye Doganoglu, Turkey (L, EPP/CCE) and Mr Zdenek Broz, Czech Republic (L, CRE/ECR) following a visit to Andorra from 25 to 26 April 2017.

2. With regard to Andorra:

a. it signed the European Charter of Local Self-Government (ETS No 122) on 27 October 2010 and ratified it on 23 March 2011 with the exception of Article 9.2 on commensurate financial resources, Article 9.5 on financial equalisation, Article 9.8 on access to national capital market; the Charter came into force for Andorra on 1 July 2011;

b. it 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 n° 207);

c. the state of local democracy in Andorra has not previously been subject to a monitoring visit by the Congress, since the ratification of the European Charter of Local Self-Government;

d. the Monitoring Committee instructed Ms Gaye Doganoglu and Mr Zdenek Broz to prepare and submit to the Congress, as rapporteurs, a report on local democracy in Andorra. In their work, the rapporteurs were assisted by Prof. Dr. Tania Groppi, expert, member of the Group of Independent Experts on the European Charter of Local Self-Government, and by the Congress secretariat;

² Debated and adopted by the Congress on 28 March 2018, 2nd sitting (see Document [CG34\(2018\)14](#), explanatory memorandum), co-rapporteurs: Gaye DOGANOGLU, Turkey (L, EPP/CCE) and Zdenek BROZ, Czech Republic (L, ECR).

e. The Congress delegation carried out a monitoring visit to Andorra from 25 to 26 April 2017, visiting Andorra la Vella, Canillo and Encamp. During the visit the delegation met representatives of national authorities (Government, Ministry of Finance), Court of Auditors, General Council (Parliament), Constitutional Court, local authorities, experts, Ombudsman and members of the National delegation of Andorra to the Congress. The detailed programme of the visit is appended.

3. The Congress wishes to thank the Permanent Representation of Andorra to the Council of Europe and the Andorran authorities at central and local levels, as well as other interlocutors for their valuable co-operation and for the information provided to the delegation.

4. The Congress notes with satisfaction:

a. a globally satisfactory level of local democracy in Andorra, as demonstrated by the low level of conflicts between State and local authorities;

b. general compliance with the commitments entered into by the Principality of Andorra when it ratified the European Charter of Local Self-Government on 23 March 2011;

c. a culture of consultation and close dialogue between the State and local authorities facilitated by their proximity due to the reduced dimension of the country and by long-standing traditions;

d. representation of municipalities in the composition of the Parliament;

e. on-going negotiation in a tripartite process, involving the government, the parliament and local authorities of a reform of the competences and the financial resources aimed at updating the entire system of transfers.

5. The Congress notes that the following points call for particular attention:

a. the absence of a formal recognition in law of mechanisms of consultation with local authorities on matters that directly affect them even though systematic and effective consultations are held in practice;

b. the city of Andorra la Vella has not been granted a special status, on the basis of Congress Recommendation 219 (2007), establishing different legal arrangements to take account of the particular situation of the Capital city compared to other municipalities.

6. In light of the foregoing, Congress requests that the Committee of Ministers invite the Andorran authorities:

a. to formalise in law the mechanism of consultation of local authorities by the central authorities which would further safeguard the right of local authorities to be consulted on all matters that concern them directly;

b. to grant the city of Andorra la Vella a special status, on the basis of Congress Recommendation 219 (2007), establishing different legal arrangements to take into account the particular situation of the Capital city compared to other municipalities;

c. to consider ratifying paragraphs 2 and 5 of Article 9, which are de facto applied in Andorra;

d. to pursue the reform efforts with regard to competences and financial resources of local authorities on the basis of the relevant principles of the Charter;

e. to consider signing and ratifying 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).

7. The Congress calls on the Committee of Ministers to take account of this recommendation on local democracy in Andorra and the accompanying explanatory memorandum in its activities relating to this member State.

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Local democracy in Liechtenstein

Recommendation 416 (2018)¹

5. 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(2015)9 relating to the Congress, 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 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 the monitoring procedures;

d. Recommendation 196 (2006) on local democracy in Liechtenstein;

e. the present explanatory memorandum on local democracy in Liechtenstein, drawn up by Artur Torres Pereira, Portugal (L, EPP/CCE) and Marie Kaufmann, Czech Republic (R, ILDG), as rapporteurs, following a visit to Liechtenstein from 6 to 7 June 2017.²

6. With regard to Liechtenstein:

a. it signed the European Charter of Local Self-Government (hereinafter “the Charter”) on 15 October 1985, and ratified it on 11 May 1988 with the exception of Article 3 paragraph 2, Article 6 paragraph 2, Article 7 paragraph 2, Article 9 paragraphs 3,4,8 and Article 10 paragraphs 2 and 3. The Charter entered into force in Liechtenstein on 1 September 1988;

b. it 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 situation of local democracy in Liechtenstein has already been the focus of Recommendation 196 (2006) adopted by the Congress on 1 June 2006;

¹ Debated and adopted by the Congress on 28 March 2018, 2nd sitting (see Document [CG34\(2018\)15](#), explanatory memorandum), co-rapporteurs: Artur TORRES PEREIRA, Portugal (L, EPP/CCE) and Marie KAUFMANN, Czech Republic (R, ILDG).

² The rapporteurs were assisted by Prof. Zoltan SZENTE, member of the Group of Independent Experts on the European Charter of Local Self-Government, and the Congress Secretariat.

d. the Monitoring Committee decided to review the situation with regard to local self-government in Liechtenstein in the light of the Charter and instructed Artur Torres Pereira and Marie Kaufmann, as rapporteurs, to prepare and submit to the Congress a report on local democracy in Liechtenstein;

e. The Congress delegation carried out a monitoring visit to Liechtenstein from 6 to 7 June 2017, visiting Vaduz, Triesenberg and Planken. During the visit the delegation met representatives of national authorities (Prime minister and Minister of General Government as well as Minister of Home Affairs, Education and Environment), President of the Parliament (Landtag), President of the State Court (Staatsgerichtshof), the National delegation of Liechtenstein to the Congress, the representatives of the Association for Human Rights (Verein für Menschenrechte in Liechtenstein) as well as local authorities of the capital city Vaduz and the municipalities of Triesenberg and Planken. The detailed program of the visit is appended.

7. The rapporteurs wish to thank the Permanent Representation of Liechtenstein to the Council of Europe, as well as all the national and local contacts and all those whom the delegation met during the visit for making themselves available and for the information they so willingly provided.

8. The Congress notes with satisfaction:

a. due general implementation of the principles and requirements of the European Charter of Local Self-Government;

b. a healthy financial situation of local authorities in Liechtenstein due to the high percentage of tax revenue received by municipalities and their well-balanced budgets;

c. close and effective co-operation between the central government and local authorities in practice;

d. highly developed citizen participation in local matters through the municipal assemblies and local referendums;

e. the compliance de-facto with non-ratified provisions of the Charter.

9. The Congress notes that the following points call for particular attention:

a. the present system of Government approval of municipal budgets as a legal condition for the validity of municipal budgets which is not proportionate to the importance of the interest which it is intended to protect (Article 8 paragraphs 2- 3);

b. overlapping of some competences, in particular as regards municipal budget approval, issuing of the building permits and the approval of community planning and development that does not allow for the powers given to local authorities to be full and exclusive (Article 4 paragraph 4);

c. the absence of a formal recognition in the law of mechanisms of consultation with local authorities on matters that directly affect them even though systematic and effective consultations take place in practice.

10. In light of the foregoing, Congress requests that the Committee of Ministers invite the authorities of Liechtenstein to:

a. abolish the system of government approval of local budgets;

b. clarify the allocation of competences between the central government and the municipalities related to issuing building permits and the approval of community planning and development so as to ensure that local governments should have full and exclusive powers within the meaning of Article 4 paragraph 4;

c. formalise in law the mechanism of consulting local authorities that would further safeguard their right to be consulted on all matters that concern them directly;

d. consider ratifying Article 3 paragraph 2, Article 6 paragraph 2, Article 7 paragraph 2, Article 9 paragraphs 3,4,8, Article 10 paragraphs 2 and 3, which are de facto applied in Liechtenstein;

e. consider signing and ratifying 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).

11. The Congress calls on the Committee of Ministers to take account of this recommendation on local democracy in Liechtenstein and the accompanying explanatory memorandum in its activities relating to this member State.

34th SESSION

Local democracy in Monaco

Recommendation 417 (2018)¹

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 “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 appended explanatory memorandum on local democracy in Monaco.

2. The Congress would point out that:

a. Monaco became a member of the Council of Europe on 5 October 2004. It signed and ratified the European Charter of Local Self-Government (ETS No. 122, hereinafter: “the Charter”) on 10 January 2013, which came into force on 1 May 2013;

b. Pursuant to Article 12, paragraph 2, of the Charter, Monaco declared that it considered itself bound by Articles 2; 3.2; 4.1, 4.2, 4.4, 4.5 and 4.6; 5; 6.1 and 6.2; 7.1 and 7.3; 8.1 and 8.2; 9.5, 9.6 and 9.7; 10.1 and 10.3; and Article 11 of the Charter;

c. Monaco adopted a “Declaration of interpretation by the Principality of Monaco concerning Article 3”, stating that: “The Princely Government recalls that the territory of the Principality, with a surface area of approximately 2 km², constitutes only one municipality which is an autonomous institution established by the Constitution, endowed with legal personality and governed by public law. Therefore, the concept of local self-government as stipulated in Article 3 of this Charter applies there, in Monaco, in light of the specific institutional and geographical characteristics of the country, within the framework defined by Title IX of the Constitution and by Law No. 959 of 24 July 1974”;

d. Monaco 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);

¹ Debated and adopted by the Congress on 28 March 2018, 2nd sitting (see Document [CG34\(2018\)16](#), explanatory memorandum), co-rapporteurs: Michalis ANGELOPOULOS, Greece (L, EPP/CCE) and Marianne HOLLINGER, Switzerland (L, ILDG).

e. The Monitoring Committee decided to examine the situation of local democracy in Monaco in the light of the Charter. It entrusted Mr Michalis Angelopoulos, Greece (L, EPP/CCE) and Ms Marianne Hollinger, Switzerland (L, ILDG), with the task of preparing and submitting to the Congress a report on local democracy in Monaco. The delegation was assisted by Ms Tania Groppi, member of the Group of Independent Experts on the European Charter of Local Self-Government, and the Congress Secretariat;

f. The monitoring visit took place from 16 to 17 May 2017. During the visit, the Congress delegation met the representatives of various institutions. The detailed programme of the visit is set out in the appendix to this document;

g. The delegation would like to thank the Permanent Delegation of Monaco to the Council of Europe and the interlocutors it met during the visit for their assistance, their availability and the information they provided.

3. The Congress, given the specific features of Monaco, notes with satisfaction that:

a. the level of local self-government is generally satisfactory in Monaco;

b. relations between central government and the Municipality of Monaco, which are facilitated by the small size of the country, are good;

c. the law provides mechanisms for consulting the Municipality in several fields;

d. the Municipality has adequate administrative structures and resources;

e. administrative controls are aimed at ensuring compliance with the law;

f. the Municipality de Monaco has more than adequate financial resources.

4. The Congress notes that the following points call for special attention:

a. the political responsibility of the mayor and his deputies who, although elected by the communal council, cannot be put in question (Article 3.2);

b. the Municipality is not consulted in an appropriate manner on the annual lump-sum appropriations allocated to it (Article 9.6);

c. the Municipality does not have the right to judicial remedy to challenge a law that is found to not be compliant with Title IX of the Constitution nor with the Charter (Article 11);

d. Monaco has not ratified several provisions of the Charter, although it does in fact comply fully with several of these, namely Articles 8.3, 9.2 and 10.2.

5. In view of the above, the Congress asks the Committee of Ministers to invite the Monegasque authorities to:

a. introduce mechanisms to ensure that the municipal executive is politically accountable to the Municipal Council;

b. put in place a mechanism for consulting the Municipality on the annual lump-sum appropriation to be allocated to it;

c. acknowledge the Municipality's right to challenge the constitutionality of laws on grounds of violation of Title IX of the Constitution and its right to question whether the laws in question are compatible with the Charter;

- d. consider the possibility of ratifying Articles 8.3, 9.2 and 10.2 that are respected de facto;
- e. consider the possibility of signing and ratifying the Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207).

34th SESSION

Local democracy in the Republic of San Marino

Recommendation 418 (2018)¹

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(2015) 9 relating to the Congress, 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 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 the monitoring procedures;

d. Recommendation 63 (1999) on local democracy in the Republic of San Marino;

e. the present explanatory memorandum on local democracy in San Marino drawn up by Harald Bergmann, Netherlands (L, ILDG) and Gunnar Axel Axelsson, Iceland (R, SOC), rapporteurs, following a visit to the country from 13 to 14 June 2017.

2. With regard to the Republic of San Marino:

a. It joined the Council of Europe on 16 November 1988. It signed the European Charter of Local Self-Government (hereinafter “the Charter”) on 16 May 2013 and ratified it on 29 October 2013 with the exception of paragraphs 3 and 8 of Article 9 of the Charter;

b. When ratifying the Charter, it made an interpretative declaration with regard to Article 9 of the Charter, which reads as follows:

“The Republic of San Marino maintains that Article 9 of the Charter must be interpreted as an article establishing a general principle of financial autonomy, according to which local authorities are entitled to freely dispose, in the framework of the national economic policy, of the resources allocated to them for the exercise of their powers”;

¹ Debated and adopted by the Congress on 28 March 2018, 2nd sitting (see Document [CG34\(2018\)17](#), explanatory memorandum), co-rapporteurs: Gunnar Axel AXELSSON, Iceland (L, SOC) and Harald BERGMANN, Netherlands (L, ILDG).

- c. The Charter entered into force in San Marino on 1 February 2014;
- d. It 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);
- e. The Monitoring Committee decided to monitor the situation of local democracy in the light of the Charter and instructed Mr Harald Bergmann and Mr Gunnar Axel Axelsson, as rapporteurs, to draw up and submit to the Congress a report on local democracy in San Marino²;
- f. The Congress delegation carried out a monitoring visit from 13 to 14 June 2017. During the visit the delegation met mayors and municipal councillors, representatives of the government and other public institutions of San Marino. The detailed programme of the visit is appended to the present report;
- g. The rapporteurs wish to thank the Permanent Representation of San Marino to the Council of Europe, the Sammarinese delegation to the Congress and all the interlocutors met during the visit for their valuable co-operation, availability and for the valuable information they provided.

3. The Congress notes with satisfaction:

- a. the launching of a reform process aimed at bringing local self-government in San Marino in line with the principles and requirements of the Charter;
- b. the recognition of the legal personality of the township councils (Giunte di Castello) and of their right to recourse to judicial remedies, and in accordance with Article 11 of the Charter;
- c. the establishing of the joint session of township representatives (consulta delle Giunte).

4. The Congress expresses its concern with regard to:

- a. limited competences and decision-making powers conferred to municipalities that hinders their ability to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population (Article 3.1) due to the concentration of nearly all public responsibilities at the level of the state (Article 4.3);
- b. the absence of autonomy of local authorities to exercise their competences (Article 4.2) which are not full and exclusive (Article 4.4.);
- c. the ineffective implementation of legally established consultation mechanisms and procedures (Articles 4.6, 9.6);
- d. inadequate financial resources available to local authorities for exercising their powers;
- e. the lack of own professional staff of local authorities (Article 6) to allow for effective management of local affairs;
- f. the absence of the explicit recognition of the principle of local self-government at the constitutional level.

5. The Congress recommends that the Committee of Ministers invite the authorities of San Marino to:

- a. allocate a substantial share of public affairs to the responsibility of local authorities in line with the principle of subsidiarity and ensure that local authorities dispose of the necessary legal and administrative means, property and finances to regulate and manage it;

² The rapporteurs were assisted by Dr Nikolaos-Komninos CHLEPAS, member of the Group of Independent Experts on the European Charter of Local Self-Government, and the Congress Secretariat.

b. clarify the areas where the townships will have full and exclusive powers and give them full discretion to exercise their initiatives with regard to any matter within their competences;

c. ensure proper implementation of consultation procedures and mechanisms in practice to permit effective consultations with local authorities, in due time and in an appropriate way on all matters that directly concern them;

d. revise the financial basis of the functioning of local self-government so as to endow local authorities with adequate financial resources which should be commensurate with their responsibilities;

e. promote the employment of professional staff in municipalities;

f. establish, in close consultation with townships, a clear time-table and pursue the reform process of local self-government in San Marino in line with the principles of the Charter;

g. enshrine the principle of local self-government at the constitutional level in order to strengthen the position of local government in line with the spirit of the Charter;

h. consider signing and ratifying 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).

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

34th SESSION

Verification of new members' credentials

Resolution 425 (2018)¹

1. In compliance with the Congress' Charter and Rules and Procedures, the countries listed hereafter have changed the composition of their delegation due to either the loss of mandate or the resignation of some members of the delegation: Armenia, Bosnia and Herzegovina, Croatia, Georgia, Ireland, Latvia, Montenegro, Norway, Romania, Spain, Sweden, "The former Yugoslav Republic of Macedonia", United Kingdom.
2. At present there are 5 representative seats and 11 substitute seats vacant out of a total of 648 seats. The countries concerned – Germany, Belgium, Bosnia and Herzegovina, France, Italy, Poland and Romania – are invited to complete their delegation.
3. The rapporteurs on the verification of credentials propose that the Congress approve the credentials of the members of the national delegations appended to this resolution.

¹ Debated and adopted by the Congress on 27 March 2018, 1st sitting (see Document [CG34\(2018\)02](#)), Co-rapporteurs: Michail ANGELOPOULOS, Greece (L, EPP/CCE) and Eunice CAMPBELL-CLARK, United Kingdom (R, SOC).

34th SESSION

Revision of Rules 9, 64 and 95 of the *Congress Rules and Procedures*

Resolution 426 (2018)¹

1. The rapporteurs on the Rules and Procedures propose several modifications aimed at improving the clarity and transparency of the rules concerned and giving the Congress and its Bureau greater flexibility and autonomy.
2. Article 9: for greater clarity the rapporteurs suggest that the provisions on funding of political groups, adopted as guidelines by the Bureau in 2013, appear as an appendix to the Rules and Procedures.
3. Article 64: with regard to Partner for Local Democracy status, created in 2014 and incorporated into its Rules and Procedures in 2015, the rapporteurs on the Rules and Procedures believe that certain modifications to the conditions pertaining to composition of the delegations would enhance the current provisions, namely:
 - a. delegations granted Partner for Local Democracy status should be composed not only of representatives but also of substitutes;
 - b. the Congress Bureau should have complete freedom to decide on the composition and size of such delegations.
4. Article 95: the Congress' rules are linked, in several areas, to those of the Parliamentary Assembly. The rapporteurs propose that the Congress be given the ability to adapt provisions to its own needs and specificities and suggest removing the automaticity between the Congress' Rules and Procedures and those of the Parliamentary Assembly.
5. The Congress adopts the proposed changes to the Rules and Procedures, as appended, which will be incorporated into the *Rules and Procedures of the Congress* and enter into effect immediately after adoption.

¹ Debated and adopted by the Congress on 27 March 2018, 1st sitting (see Document [CG34\(2018\)06](#)), co-rapporteurs: Xavier CADORET, France (L, SOC) and Marc COOLS, Belgium (L, ILDG).

Appendix 1

Rule 9 – Formation and funding of political groups

[...]

3. Rules on funding of political groups are decided upon by the Bureau of the Congress and added as an appendix to the current Rules and Procedures.

Rule 64 – Partner for Local Democracy status

[...]

8. With regard to the composition of each Partner for Local Democracy delegation:
 - a. this shall respect, as far as possible, the principles laid down in the Charter and the Congress's Rules and Procedures, in particular with regard to Article 2. Delegations should therefore reflect, as far as possible, an equitable geographic and political representation, and all attempts should be made to fulfil the gender provisions of Article 2, ensuring that at least one representative of the under-represented sex is included among the representatives and one among the substitutes;
 - b. the number of members will be laid down by the Bureau of the Congress on a case-by-case basis;
 - c. it shall consist of representatives and substitutes holding a local or regional electoral mandate in accordance with the provisions of Article 2 of the Charter;
 - d. it shall elect a head of delegation among its representatives and must ensure the support of a secretary or secretaries who are independent from all national government or agency authority for the purposes of this work and who preferably have ties with one of the associations of local and/or regional authorities entitled to be consulted with regard to the composition of national delegations. The appointment of the secretary or secretaries of delegation must be notified, in writing, to the Secretary General of the Congress by the head of delegation;
 - e. information on its composition and nomination shall be updated as required in accordance with the relevant procedures, and at the latest 15 days prior to each renewal session of national delegations to the Congress.

[...]

Rule 95 – Working languages

The working languages of the Congress will be decided upon by the Congress Bureau. Simultaneous interpretation must be provided between these languages during proceedings.

Appendix 2

Guidelines for the funding of political groups from the Congress budget (Adopted by the Bureau on 17 September 2013)

Preamble:

The Congress fully recognises the important role played by its political groups in particular for the promotion of democratic dialogue and pluralism.

Political groups contribute to structuring and enriching the work of the Congress through the variety of opinions and views they put forward, in particular when the Congress is debating or adopting texts.

Furthermore, when elections are held in the various Congress bodies, political groups contribute to fair electoral competition among candidates from different political parties.

Since its creation, the Congress has officially recognised the role of the political groups and since 2012 has included in its Rules of Procedure a specific chapter dealing with political groups (Chapter III) including their funding from the Congress budget.

As part of the democratic life of the Congress, the political groups need a basic infrastructure in order to play their role. A financial support to cover their basic needs from the Congress budget is therefore needed and justified.

In this spirit, the Bureau of the Congress, whilst fully respecting the autonomy of the Congress political groups, has adopted the following Guidelines and has endorsed an Administrative Arrangement model which clarify the funding of political groups from the Congress budget and obligations stemming from these texts.

*** **

1. As soon as possible after a Congress Bureau renewal (i.e. after the elections of the Congress President and Vice-Presidents), the Secretary General of the Congress and the president of each of the Congress political groups shall sign an Administrative Arrangement. These arrangements are for a two-year period. Each Administrative Arrangement shall remain valid even if the president of a political group or if the Secretary General of the Congress change.
2. Each year, once the overall Congress budget is approved by the Committee of Ministers of the Council of Europe, the Secretary General of the Congress shall allocate an amount for the functioning of all existing political groups. He/she shall inform the Bureau of the Congress of this allocation. In addition he/she shall foresee funds for covering the interpretation costs for group meetings during the Congress sessions.
3. This amount – apart from the interpretation costs for group meetings during the Congress sessions – shall be allocated to the groups existing at the beginning of a given year on the basis of the existing Congress Rules (2012).
4. Each year, the allocation to each political group shall be calculated on the basis of the registered members of the group as of 1 January.
5. In the first week of January of each year, the president of each political group shall send to the Secretary General of the Congress the complete list of members of the group. This information will be checked against the information contained in the Congress's database ("Who's who") which indicates the choice of affiliation made by each Congress member individually.
6. In case of discrepancy concerning the numbers of members affiliated to the group, the Secretary General of the Congress shall inform the group in question and ask each member to individually confirm his/her affiliation in the "Who's who" database no later than the following week.

7. Once the number of registered members for the group is clarified, there shall be no revision of budget allocation during a given budgetary year even if the number of members affiliated to the political group changes during that year.

8. The political groups shall use the allocation from the Congress exclusively for their functioning and in particular for the following eligible expenses:

- expenditure of secretariat staff (salaries, insurance)
- administrative expenses (office postage, telephone, office supplies)
- group meetings, missions, interpretation costs (other than those covered by the Congress on the occasion of Congress sessions) and translation costs.

9. In order to ensure coherence with the financial regulations of the Council of Europe, the statutes of political groups shall comply with a number of criteria and should specifically include provisions for:

a. The election of at least one treasurer, who cannot simultaneously hold the office of president of the group; the statutes shall specify his/her responsibilities and the duration of his/her mandate; the president and treasurer(s) shall decide on the use of funds granted by Congress. The treasurer shall prepare the financial reports to be examined by the auditors of the group.

b. The election of two auditors, who cannot hold office as member of the body responsible for managing the budget of the group; the statutes shall specify their responsibilities and the duration of their mandate; the auditors shall verify that the entries have been correctly passed in the books of account; they shall report to the group's plenary assembly and sign the statement of expenses (Model 2 in Appendix I of the Administrative Arrangement) which shall be forwarded to the Secretary General of the Congress.

10. The political groups shall transmit to the Secretary General of the Congress of the Council of Europe, preferably before the end of the Congress March session, a request for payment signed by the president of the political group together with :

- a provisional list of expenses for the year for which the Congress allocation is granted (model 1 in Appendix I of the Administrative Arrangement, in English or French);
- a statement of expenses (model 2 in Appendix I of the Administrative Arrangement, in English or French), made in the previous year, signed by the president of the political group, the treasurer and the two auditors.
- the relevant extract of the minutes of the group's plenary assembly at which the auditors' report was adopted as an appendix to the statement of expenses (model 2 in Appendix I of the Administrative Arrangement).

11. By signing the Administrative Arrangement, each political group commits itself to revise if necessary, its statutes, at the latest by 31 March 2014, in order to ensure full coherence with the financial regulations of the Council of Europe and to comply with the Guidelines and in particular with the specific criteria listed above. Payment shall only be made once the statutes in force comply with these Guidelines.

12. Each year the allocation shall be paid in a single instalment as laid down in the Administrative Arrangement and provided that the requested documentation has been transmitted.

13. Unspent funds at the end of a budgetary year shall be considered an advance for the following year and shall be deducted from the following year's allocation when it is paid.

14. The Secretary General shall inform the Congress Bureau whether the political groups abide by the terms of the Administrative Arrangement signed. In case of non-respect, the Secretary General shall inform in writing the president of the political group concerned and ask him/her to remedy the situation as soon as possible. The Secretary General shall inform the Congress Bureau accordingly, which may decide that parts or the whole of the allocation may not be paid.

15. When a new group is formed in the course of a given year, specific modalities are to be applied:

- an arrangement is to be signed following the information of the Congress Bureau (Rule 9) on the creation of the group;
- a new group shall receive its allocation in the financial year of its foundation consisting of a budgetary allocation calculated on a *pro rata temporis* basis taking account of the number of members registered in the given group at the date of the signature of the initial Administrative Arrangement;
- additional budgetary requirements for new groups shall be covered if possible by transfer from other budget lines of the Congress. If no additional funds are available for the given year, the Congress will pay this allocation to this new group from its budget in the following year.

16. If a group ceases to exist in the course of a given year, the allocations to the other groups remain unchanged. The Secretary General of the Congress informs the Bureau and requests the group in question to transfer any of its remaining funds back to the Congress.

17. These Guidelines shall become applicable for Administrative Arrangements effective after 31 December 2013. Guideline 4 shall also be applicable for the allocations for 2013.

34th SESSION

Promoting human rights at local and regional level

Resolution 427 (2018)¹

1. The Congress of Local and Regional Authorities of the Council of Europe refers to:
 - a. Resolution 365 (2014) on the “Best practices of implementation of human rights at local and regional level in member States of the Council of Europe and other States”;
 - b. Resolution 296 (2010) Revised and Recommendation 280 (2010) Revised on the “Role of local and regional authorities in the implementation of human rights”;
 - c. The reply adopted by the Committee of Ministers on 6 July 2011 at the 1118th meeting of the Ministers’ Deputies on the role of local and regional authorities in the implementation of human rights (CM/Cong(2011)Rec280 final) whereby the Committee of Ministers welcomes the Congress initiatives in the field of human rights at local level;
 - d. The first volume of the Handbook on Human Rights attached to this resolution;
2. The Congress, convinced that the application of human rights in grass-roots’ policies will serve to achieve the goal of strengthening local and regional democracy throughout Europe:
 - a. endorses the Handbook on Human Rights as a user-friendly compendium of good practice for local and regional authorities and their administrations to respond to human rights challenges – concerning refugees, asylum seekers and migrants; Roma and travellers and LGBTI – in their municipalities and regions in an effective and sustainable manner;
 - b. invites local and regional authorities and their administrations in member States and non-member States of the Council of Europe with whom the Organisation carries out co-operation activities to disseminate, promote and use this Handbook on Human Rights in their local and regional policies for the benefit of the citizens of their communities;
 - c. asks its Monitoring Committee, in co-operation with other Congress bodies and relevant bodies of the Council of Europe, to prepare the second volume of the Handbook on Human Rights.

¹ Debated and adopted by the Congress on 27 March 2018, 1st sitting (see Document [CG34\(2018\)10](#), Promoting human rights at local and regional level), rapporteur: Harald BERGMANN, Netherlands (L, ILDG), Congress Spokesperson on Human Rights at Local and Regional Level.

34th SESSION

Unaccompanied refugee children: the role and responsibilities of local and regional authorities

Resolution 428 (2018)¹

1. Since 2015, more than a million children have arrived in Council of Europe member States seeking refuge from war, conflict and poverty. Although numbers dropped in 2017, children and their families are still risking hardship, violence and abuse on their way to Europe, to find a better life. However, because children's services in most States were not prepared for the scale of the influx or the scope of the issues they have had to address, the majority of children have not yet achieved family stability and security. On the contrary, the lack of an appropriate response in many countries is putting children at risk and undermining social cohesion.

2. The Council of Europe *Strategy for the Rights of the Child (2016-2021)*² underlines that children affected by migration are one of the most vulnerable groups in Europe, and has offered support and guidance to member States' efforts to protect refugee children through a series of papers and reports, culminating in the conference of ministers' adoption of the *Action Plan on protecting refugee and migrant children in Europe* in May 2017 in Nicosia, Cyprus.

3. Although response-planning for refugees usually falls under the remit of central government authorities in line with national asylum law and policies, the provision of care, accommodation and education services to refugees usually falls, in practice, to local and regional authorities.

4. Local and regional authorities have the authority, capacity and responsibility to protect refugee children's rights by developing services, enforcing quality standards and encouraging positive community attitudes towards refugees. This gives them a key role in ensuring access to rights and child-friendly procedures, providing effective protection and enhancing the integration of children who wish to remain in Europe.

5. States across Europe are still adapting legislation, policies and strategies to the consequences of the increased flow of refugees into Europe since 2015. Local and regional authorities in many countries are developing new models to support, facilitate and extend refugees' access to quality health, education, welfare and protection services. Such models need to adopt a child-rights-based approach to be effective, sustainable and maximise impact for the child and the community.

¹ Debated and adopted by the Congress on 28 March 2018, 2nd sitting (see Document [CG34\(2018\)13](#), explanatory memorandum), rapporteur: Nawel RAFIK-ELMRINI, France (L, SOC).

² *Council of Europe Strategy for the Rights of the Child (2016-2021)* (March 2016) Strasbourg, p9

6. The Congress of Local and Regional Authorities of the Council of Europe has underlined the special attention that should be given to the interests and fundamental rights of refugees and migrants and adopted a report entitled “From reception to integration: the role of local and regional authorities facing migration” in March 2017.³ The aim of the present resolution is to offer local and regional authorities guidance on how they can further strengthen the protection of refugee children and unaccompanied minors, and ensure that the time spent by the latter in the host countries is a positive experience.

7. In light of the above, the Congress, while recognising that each State has a sovereign right, subject to its international obligations, to determine whom to admit to its territory, invites the local and regional authorities of the member States to:

a. adopt a child-rights-based approach (non-discrimination, best interests of the child, right to life, survival and development and the right to be heard) towards every child for the duration of their stay in a country, regardless of their legal status or position in the asylum process and aim to facilitate rapid referral to, and absorption into, mainstream child and family services, rather than create parallel or alternative systems, structures or services as these maintain a divide between host and refugee communities, thereby slowing down integration efforts;

b. be aware when developing policies and taking action of the common elements observed in successful local initiatives which include strong engagement with NGOs and civil society, close co-operation between the various levels of government, as well as across government departments, provision of support services and removal of administrative and practical barriers to services;

c. invite local and regional authorities to develop alternatives to detention for families and suitable alternative care arrangements for unaccompanied and separated children, taking into account the relevant guidelines (notably on age-assessment, guardianship and alternatives to detention of children) and the compilations of good practices and other resources (handbooks and training materials) that will be produced in the context of the Council of Europe Action Plan to protect refugee and migrant children in Europe (2017-2019);

d. be involved in the preparation of national dispersal plans so that they will be better able to prepare services, communities and professionals for refugee children's arrival (through training, recruitment of support staff, preparation of guidelines etc.) and commit to reach out to unaccompanied and vulnerable children to ensure their full access to health, education and protection services when they arrive, and to support for their full integration into local communities in the long term;

e. encourage regional authorities, whose mandate includes education, to ensure that the minimum education package for refugee children encompasses immediate access to mainstream schooling and provision of appropriate language and learning support services, including teaching assistance;

f. encourage regional authorities, whose mandate includes health care, to adopt core health packages that encompass automatic inclusion in basic national health programmes, counselling services and emergency treatment and care, as well as core social protection packages to give access to basic social assistance, family benefits and housing assistance for families with children; delinking provision of material assistance from asylum conditionality or residence requirements;

g. work together with communities and civil society to remove barriers for refugee families to access health, education and protection services (for example addressing the 3 month gap in many countries before asylum seeking children can enrol in school or including all mothers and children in local mother and child health services automatically), and to develop outreach and support services to facilitate easy and early access to mainstream services and encourage rapid integration into local communities (including cultural mediators, translation services, language training, and possibly training and orientation of existing staff, professionals and managers);

³ Resolution 411-2017 Recommendation 394-2017:
https://search.coe.int/congress/Pages/result_details.aspx?ObjectId=0900001680703e5e

- h.* remove restrictions on access to homeless shelters and other local facilities, based on residence and/or visa status, and develop facilities for refugee and migrant survivors of sexual and gender-based violence;
- i.* ensure that any child held in such a facility is formally under the care of the local child protection authorities, and in order to develop alternative care and living services to prevent, mitigate, shorten and reduce placement of children in closed facilities;
- j.* encourage local authorities to develop and maintain local guardianship services appropriate to the local context and resources and to put in place specific guardianship boards to promote the service, provide support, back-up and training, run recruitment campaigns and mediate disputes and difficulties.