

# THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

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## Recommendation 310 (2011)<sup>1</sup> Local and regional democracy in Bulgaria

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

*a.* Article 2, paragraph 1.*b.*, of Statutory Resolution CM/Res(2011)2 of the Committee of Ministers relating to the Congress of Local and Regional Authorities of the Council of Europe, which states that one of its aims is “to submit proposals to the Committee of Ministers in order to promote local and regional democracy”;

*b.* Article 2, paragraph 3, of the above-mentioned Statutory Resolution CM/Res(2011)2, which states 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”(hereafter “the Charter”);

*c.* its Resolution 299 (2010),<sup>2</sup> which states that the Congress will use the Council of Europe Reference Framework for Regional Democracy (MCL-16(2009)11) in its monitoring activities, as well as the reply given by the Committee of Ministers to Congress Recommendation 282 (2010)<sup>3</sup> (CM/CONG(2011)Rec282final) encouraging the governments of member states to take account of the aforementioned reference framework in their policies and reforms;

*d.* the explanatory memorandum on local and regional democracy in Bulgaria.

2. The Congress recalls that:

*a.* Bulgaria joined the Council of Europe on 7 May 1992. It signed the European Charter of Local Self-Government (ETS No. 122) on 3 October 1994 and ratified it on 10 May 1995, declaring itself bound by all the provisions of the Charter with the exception of Article 7, paragraph 2. The treaty came into force in respect of Bulgaria on 1 September 1995;

*b.* the situation of local and regional self-government in the Republic of Bulgaria was the subject of a monitoring report and Congress Recommendation 45 (1998);<sup>4</sup>

*c.* a delegation from the Congress<sup>5</sup> made a monitoring visit to Bulgaria from 24 to 26 November 2010. Meetings were held in Sofia, Veliko Tarnovo and Pernik with representatives of state institutions (government, parliament), judicial institutions (Constitutional Court, ombudspersons), and local authorities and their associations.

3. The rapporteurs wish to thank the Permanent Representation of Bulgaria to the Council of Europe, as well as the central and local government authorities in Bulgaria, the National Association of Municipalities of the Republic of Bulgaria (NAMRB) and the various personalities whom they met for their valuable assistance during all the stages of the monitoring procedure and for all the information provided.

4. The Congress notes with satisfaction that:

*a.* Bulgaria generally complies with the provisions set out in the European Charter of Local Self-Government, and local democracy has improved noticeably since the Congress’ monitoring visit of 1998;

*b.* the level of reception of the Charter in Bulgaria’s domestic legal system is satisfactory;

*c.* the National Association of Municipalities of the Republic of Bulgaria is well established and enjoys the support of all local authorities. Its role in the decision-making process at national level is increasingly noticed;

*d.* although Bulgaria has expressed a reservation to Article 7, paragraph 2 of the charter, the law on local self-government and local administration provides for the mayor and municipal councillors to receive remuneration;

*e.* consideration is being given in Bulgaria to the development of a regional level. A regional development programme was set up for 2007-2013, partly financed by funds granted by the European Union.

5. The Congress nevertheless observes that a number of points, some of which were dealt with in Recommendation 45 (1998), deserve particular attention:

*a.* the budgetary regulations, and particularly the procedure for the “consolidated budget” which is adopted by the government, restrict local authorities’ autonomy, thereby raising a problem of conformity with Article 9 of the European Charter of Local Self-Government;

*b.* Bulgarian municipalities’ level of financial autonomy is relatively low. The gradual decrease in financial resources made available to local authorities is not in accordance with the provisions of the Charter. More than half of local authorities’ budget derives from government transfers;

*c.* the lack of clarity in the division between delegated powers and authorities’ own powers persists. Powers delegated to local authorities are still in the majority, compared with authorities’ own powers;

*d.* since the adoption of a law in 2011, the principle of direct universal suffrage for municipal council elections has been limited to certain tiers of local administration;

*e.* the procedure for the direct annulment of administrative activities by governors, which brings to mind a “supervision of expediency”, is not in accordance with the provisions of the European Charter of Local Self-Government, namely Article 4, paragraph 4, taken in conjunction with Article 8;

*f.* domestic legislation does not define precisely enough those cases in which an administrative body of a municipality may be dismissed or dissolved;

*g.* the European Charter of Local Self-Government may not be relied on by local authorities in ordinary courts;

*h.* the discussions on establishing a regionalisation strategy have not yet been completed;

*i.* the local ombudsperson remains an optional institution in Bulgarian municipalities due to lack of financial resources of local authorities;

*j.* 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) has not been signed by Bulgaria.

6. In the light of the above, the Congress requests the Committee of Ministers to invite the Bulgarian authorities to:

*a.* revise the budgetary procedure in force and amend the current regulations in order to give local authorities budgetary autonomy in accordance with the principles set out in the European Charter of Local Self-Government in conformity with Article 9 thereof;

*b.* allocate to local authorities sufficient financial resources commensurate with their competences and responsibilities, *inter alia* by revising the legal provisions in force on the financing of municipalities;

*c.* allocate to local authorities more powers of their own, in order to give them a level of local autonomy which conforms to the European Charter of Local Self-Government, namely Article 4, paragraphs 4 and 5, and Article 8;

*d.* maintain direct elections for councils at all levels of local administration without any distinction based on population size;

*e.* revise the legislation on the supervision of administrative activities related to their own competences in order to ensure that any annulment of these is carried out only through a judicial procedure, on referral by the regional governor;

*f.* revise the legislation on the supervision of local governance bodies in order to specify those cases in which dismissal or dissolution may be carried out;

*g.* give effective judicial protection to local authorities and grant them a proper right of appeal to ordinary courts;

*h.* encourage continuing dialogue between all actors in order to find the most appropriate way to implement decentralisation in the interests of Bulgaria and take into account the principles laid down in the Reference Framework for Regional Democracy;

*i.* withdraw the reservation in respect of Article 7, paragraph 2, expressed when the European Charter of Local Self-Government was ratified, in so far as the Local Self-Government and Local Administration Act is in accordance with this provision of the charter;

*j.* consider signing and then ratifying, in the near future, the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority, and signing and ratifying, in the near future, Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (ECGs) (CETS No. 206).

7. The Congress invites the Parliamentary Assembly of the Council of Europe to take into account the above recommendations during their next monitoring visit.

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1. 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/CD) and J. Sauwens, Belgium (R, EPP/CD).

2. Resolution 299 (2010) 1 on the follow-up by the Congress of the Council of Europe Conference of Ministers responsible for Local and Regional Government (Utrecht, Netherlands, 16-17 November 2009).

3. Recommendation 282 (2010) on the follow-up by the Congress of the Conference of Ministers responsible for Local and Regional Government (Utrecht, Netherlands, 16-17 November 2009).

4. Recommendation 45 (1998) on the situation of local and regional self-government in the Republic of Bulgaria, adopted by the Congress on 28 May 1998, rapporteurs: Giorgio de Sabbata (Italy) and Llibert Cuatrecasas (Spain).

5. Artur Torres Pereira, Portugal (L, EPP/CD), and Johan Sauwens, Belgium (R, EPP/CD), were appointed rapporteurs and entrusted with the presentation of a new report to the Congress on local and regional democracy in the Republic of Bulgaria. They were assisted in their work by a consultant, Francesco Merloni (Italy), Chairman of the Group of Independent Experts on the European Charter of Local Self-Government.