

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Recommendation 226 (2007)¹ Local and regional democracy in Croatia

The Congress,

1. Refers to:

a. Article 2, paragraph 1 *b.*, of Statutory Resolution (2000) 1 on the Congress of Local and Regional Authorities of Europe, which provides that one of the objectives 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 Statutory Resolution (2000) 1 on the Congress, 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”;

c. its Resolutions 31 (1996), 58 (1997) and 106 (2000), setting out the guidelines for drafting the reports referred to above;

2. Draws attention to its Resolution (67) and Recommendation (46) adopted by the Congress in 1998 on local and regional democracy in Croatia;

3. Takes note of the report on local and regional democracy in Croatia (CG/INST(14)6) drawn up by the rapporteurs Karsten Behr (Germany, EPP/CD, R) and Cees Bijl (Netherlands, SOC, L) following two official visits to Croatia from 18 to 20 April 2007 and from 2 to 4 July 2007. The rapporteurs were assisted in their task by Professor Chris Himsworth, consultant (UK), Vice-Chairman of the Group of Independent Experts on the European Charter of Local Self-Government, whom the Congress wishes to thank for his valuable contribution;

4. Wishes to thank the Croatian authorities at local, regional and central level (government and parliament), the Constitutional Court, the national associations of local and regional self-government, as well as experts and representatives of non-governmental organisations and of the international community in Croatia, for the information provided and comments made during their meetings with the rapporteurs;

5. Considering that:

a. the European Charter of Local Self-Government has been signed and ratified by Croatia and entered into force on 19 September 1997;

b. the Congress’ Recommendation 46 (1998) on the situation of local and regional democracy in Croatia revealed serious shortcomings in local and regional democracy there, emphasising the lack of clarity with regard to the distribution of powers between the various levels of government and the inadequacy of resources made available to local and regional authorities to exercise these powers;

6. Notes with satisfaction that:

a. the overall assessment of the condition of local and regional democracy in Croatia demonstrates that there is an apparent commitment at all levels of government to the principle of decentralisation and to establishing real autonomy of operation at both local and regional levels;

b. the legal reform of 2001 has led to significant progress in the fields of local and regional democracy;

c. Croatia has signed and ratified the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities which entered into force in Croatia on 18 December 2003;

7. Notes the following main problems in the functioning of local democracy in Croatia:

a. despite the fact that the Congress, in its Recommendation 46 (1998), had called upon Croatia to extend the scope of applicability of the charter as rapidly as possible, this has not, been done;

b. arrangements made to the territorial organisation of Croatia since 1992 have to a certain extent been haphazard, unsystematic and subject to political pressures. They have led in particular to the creation of new, often ineffectively tiny, municipalities unable sufficiently to exercise local self-government;

c. functions are allocated without sufficient regard to the large variations in the size of local authorities and particularly without regard to the feasibility of exercising those functions in very small municipalities;

d. the City of Zagreb, as it is a city of expanding population, is currently under-represented by a single local authority;

e. the competences of local and regional authorities are marked by incomplete implementation especially as regards the lack of necessary special laws or bylaws;

f. functions are often imprecisely allocated;

g. the constitutionality of some of the new allocations of powers to local and regional authorities gives place to certain doubts because of the legislative manner of their allocation and many overlapping areas in the lists of powers;

h. the new range of competences supposed to have been allocated to the “large towns” by the Local and Territorial (Regional) Self-Government Act as amended in 2005 requires amendments to some 35 sectoral laws to achieve the necessary specification of functions. However, few steps to implement these reforms have been undertaken so far;

i. the exercise of related functions by the state, counties and municipalities can give rise to situations where the state or counties may dictate outcomes to municipalities;

j. the total levels of revenue available to local and regional authorities are not adequate to meet their actual needs;

k. the level of financial resources whose level local and regional authorities themselves have the power to decide are small or, in some cases, negligible;

l. too much of the funding made available to the counties and “large towns” is wholly earmarked for purposes dictated by central government;

m. the funding system does very little to relieve the difficulties of the very smallest municipalities, as they have the same competences as the other municipalities (except of the “large towns”) but very limited financial resources;

n. the present provision on co-operation between authorities in the 2001 Local and Territorial (Regional) Self-Government Act is too narrowly cast regarding its sectoral coverage and neither urges the adoption of co-operation where necessary nor provides for specific mechanisms to enable co-operation to happen on the ground;

o. Croatian legislation does not contain sufficient provision for the consultation of local authorities in the matters which concern them directly;

p. national associations of local or regional self-government may be founded only if the decision to found such an association is taken by more than half of the municipalities, towns or counties;

q. Croatia has not yet either signed or ratified the two Protocols to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities;

8. Recommends to the state authorities of Croatia to:

a. undertake a procedure, initiated by the Central State Office for Administration, which would lead to a full adherence of Croatia to all provisions of the European Charter of Local Self-Government;

b. take the necessary steps for the Decentralisation Commission under the auspices of the Central State Office for Administration to be revitalised as a dynamic and leading institution in the decentralisation process. Its membership, remit and available resources should be reorganised;

c. undertake a general and more systematic review of the territorial organisation of local and regional government as a possible solution to the problem of the ineffective tiny municipalities;

d. address the position of the City of Zagreb in particular if a broader review of the territorial organisation is to be undertaken;

e. consider establishing a second (lower) tier of local authorities within the capital, thus also securing distinctive levels of both local and regional self-government for the capital;

f. take immediate steps, whether by further legislation or otherwise, to complete the processes of implementation of the Local and Territorial (Regional) Self-Government Act 2005, with the aim of securing the competences of local and regional authorities;

g. investigate and report on the constitutionality of some of the new allocations of powers and of the legislative manner of their allocation;

h. take measures (by further sectoral legislation or otherwise), so that the apparent sharing or concurrency of functions between local and regional authorities is avoided and that the competences of each level of government are clearly defined in such a way as to allocate a “substantial share” to both regional and local authorities;

i. ensure that the clarification of allocation of powers to different levels of government leaves room for the autonomous exercise of power by the municipalities;

j. improve the funding in particular of those municipalities, which face difficulties in delivering local self-government due to their small size;

k. increase the overall level of funding for local and regional authorities;

l. increase significantly the availability of own financial resources the level of which local and regional authorities have themselves the power to decide;

m. review the (frequent) earmarking of funds available to the counties and “large towns” for the provision of major “decentralised” services;

n. consult as widely as possible the local and regional authorities, paying special attention to their interests, when introducing any future financial reforms, in view of assuring the stability and predictability of local and regional authorities’ funding resources;

o. introduce new legislation to improve the provision already made in the Act on Local and Territorial (Regional) Self-Government (2001) for intermunicipal co-operation with special regard to enabling, in particular, small municipalities to handle the full range of their functions;

p. enhance – within their field of competence – inter-municipal co-operation and the development of a legal framework and to raise awareness amongst local elected representatives for the importance and advantages of co-operation between municipalities;

q. make a general legal provision for the consultation of local and regional authorities in the planning and decision-making processes for all matters which concern them directly and for including the allocation of redistributed resources into the legislation;

r. provide adequate resources with a view to enabling the associations of local and regional self-government to strengthen their administrative and professional capacity;

s. maintain contact with the associations of local and regional self-government and involve them, on a consultative basis, wherever local and regional self-government is concerned;

t. consider removing Article 12 (3) of the Act on Local and Territorial (Regional) Self-Government (2001), prescribing that national associations of local or regional authorities may be founded only if the decision is made by more than half of the municipalities, towns or counties;

u. extend the measures which have been undertaken through both university courses and the local and regional government academies for the education and training of personnel in the service of local and regional self-government;

v. report to the Congress on envisaged reforms of the administrative courts and the implementation of those reforms;

w. sign and ratify the two Protocols to the European Outline Convention on Transfrontier Co-operation;

9. Recommends that the local authorities of Croatia expand their intermunicipal co-operation as far as possible especially with regard to the delivery of services;

10. Recommends that the associations of local and regional self-government:

a. strive, both separately and jointly, to strengthen their representative role on all issues relating to local and regional self-government;

b. strengthen their administrative and professional capacity;

11. Recommends that the Committee of Ministers transmit this recommendation and its explanatory memorandum to the authorities of Croatia;

12. Recommends that the Parliamentary Assembly take account of the preceding observations and recommendations in monitoring the extent to which the commitments undertaken by Croatia have been honoured;

13. Recommends that the authorities of Croatia responsible for local and regional government:

a. appoint a senior representative of the government to attend one of the Congress sessions in order to give an interim presentation of the measures taken and/or planned to implement the recommendation;

b. take note that the authorities of Croatia will be invited to submit within a reasonable time-frame a report for the attention of the President of the Congress on implementation of the measures set out in this recommendation.

1. Debated and adopted by the Standing Committee of the Congress on 20 November 2007 (see Document CG(14)21REC, draft recommendation presented by C. Bijl (Netherlands, L, SOC) and K. Behr (Germany, R, EPP/CD), rapporteurs).