

35th SESSION

Local and regional democracy in Georgia

Recommendation 426 (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 (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 (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. previous Congress recommendations on local and regional democracy in Georgia (157 (2004) and 334(2013) and the post-monitoring Roadmap for Georgia (2015);

e. the appended explanatory memorandum on local and regional democracy in Georgia.

2. The Congress points out that:

a. Georgia signed the European Charter of Local Self-Government on 29 May 2002 and ratified it on 8 December 2004 with entry into force on 1 April 2005. In accordance with Article 12, paragraph 1 of the Charter, Georgia declared itself not bound by Article 4 paragraph 6, Article 5, Article 6 paragraph 2, Article 9 paragraph 6 and Article 10 paragraphs 2 and 3;

b. Georgia 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;

c. the state of local and regional democracy in Georgia was the subject of a Congress monitoring report in 2013. The Committee on the Honouring of Obligations and Commitments by member States of the European Charter of Local Self-Government (hereinafter referred to as the Monitoring Committee) decided to examine the situation of local and regional democracy in Georgia in the light of the Charter. It instructed Michail Angelopoulos, Greece (L, EPP/CCE) and Stewart Dickson, United Kingdom (R, ILDG) as rapporteurs to update the above mentioned report on local and regional democracy in Georgia and submit it to the Congress;

d. The Congress delegation carried out a monitoring visit to Georgia from 17 to 18 April 2018. The detailed programme of the visit is set out in the appendix to this document.

3. The co-rapporteurs wish to thank the Permanent Representation of Georgia to the Council of Europe and the Georgian authorities at central, regional and local levels, the National Association of Local Authorities of Georgia (NALAG) and experts as well as other interlocutors for their valuable co-operation at different stages of the monitoring procedure and the information conveyed to the delegation.

4. The Congress notes with satisfaction the:

a. substantial progress achieved in the field of local and regional democracy since the previous Congress monitoring and post-monitoring visits to Georgia;

¹ Debated and adopted by the Congress on 7 November 2018, 2nd sitting (see Document CG35(2018)18, explanatory memorandum), corapporteurs: Michail ANGELOPOULOS, Greece (L, EPP/CCE), and Stewart DICKSON, United Kingdom (R, ILDG).

- b.* integration of the principles of the Charter in the constitutional provisions, notably the explicit recognition of the principles of subsidiarity alongside the commensurability principle and the introduction of a clause of general competence;
- c.* visible political will demonstrated by the Georgian authorities to fulfil the Congress recommendations, notably as regards further integration of the guiding principles of local self-government into domestic legislation;
- d.* introduction of direct election of mayors as suggested by Congress Recommendation 334 (2013);
- e.* establishment of new mechanisms of citizens' participation in public decision-making;
- f.* strengthening of the financial capacity of local government through additional tax revenue;
- g.* modernisation of the auditing system and recruitment of specialised auditing staff;
- h.* development of a comprehensive reform strategy aimed at decentralisation and modernisation of local government and the further elaboration of a regional development strategy in order to smooth out regional disparities which still prevail in Georgia;
- i.* strengthening of the constitutional status of the Autonomous Republic of Adjara ;
- j.* official recognition of the representative position of NALAG as an interlocutor and partner and its active involvement in discussions and negotiations regarding all matters which concern local authorities directly.

5. The Congress expresses concern about :

- a.* lack of clarity in distribution of some competences, notably in the area of water supply, as a result of inconsistency between the sectoral legislation and the Code of Local Self-Government coupled with slow progress in the process of aligning the sectoral legislation with decentralisation policies (Article 4.4);
- b.* mismatch between the equalisation formula and the interests of weaker municipalities who lack stimulation to increase their own revenues since this would decrease the amount of the equalisation grant (Article 9.5);
- c.* difficulties faced by some opposition members in access to information held by municipal administrations that allegedly prevent them from fulfilling their role in assemblies and other municipal bodies and increase tensions between the representatives of the ruling party and the opposition;
- d.* risks of over-concentration of power in the hands of mayor, notably in view of his/her role in the appointment of deputy mayors, that could limit the direct accountability of the executive to the Sakrebulo;
- e.* formula for the calculation of the number of employees in municipalities that restricts the organisational autonomy of local authorities;
- f.* delays in transferring immovable property and agricultural land resources to municipalities.

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

- a.* accelerate the alignment of the legal framework, notably sectoral legislation, and policies with decentralisation objectives to ensure that powers given to local authorities are full and exclusive;
- b.* revise the formula of calculation of equalisation transfers, in particular the distribution criteria, and increase the equalisation fund to smooth out regional and inter-municipal disparities;
- c.* develop capacity building programmes for local council members, in particular in remote municipalities, with regard to the use of all available legal instruments for the protection of their rights and adopt other measures aimed at restoring mutual trust between the representatives of the ruling party and the opposition which is necessary for the proper functioning of local democracy;

- d.* introduce a legal provision concerning the approval by the Sakrebulo of the appointment of deputy mayors, in the light of Tbilisi's experience, in order to increase the direct accountability of the executive to the municipal council;
- e.* review the formula for the calculation of the number of employees in order to make it more flexible and adjustable to particular local needs and circumstances;
- f.* accelerate the "municipalisation" of immovable property and natural resources to enlarge and diversify the financial basis of local government;
- g.* enhance the financial capacity of local governments, including the capacity to generate their own resources through all available means, including further enlarging the tax base;
- h.* further elaborate the legal framework, especially concerning sectoral laws, in order to facilitate and promote inter-municipal co-operation;
- i.* continue the regional development efforts, while ensuring a certain degree of continuity with what has already been achieved in the area of regional development strategy and policies, in order to ensure balanced and sustainable socio-economic regional development;
- j.* ratify Article 4 paragraph 6, Article 5, Article 6 paragraph 2, Article 9 paragraph 6 and Article 10 paragraphs 2 and 3 which are *de facto* applied in Georgia;
- k.* 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 (CETS No. 207) as soon as possible.