

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Recommendation 334 (2013)¹ Local and regional democracy in Georgia

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 and the revised Charter appended thereto, 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 the above-mentioned Statutory Resolution, 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. its Resolution 307 (2010) -Revised on procedures for monitoring the obligations and commitments entered into by the Council of Europe member states in respect of their ratification of the European Charter of Local Self-Government (ETS No. 122);

d. its Recommendation 219 (2007) on the status of capital cities, Recommendation 132 (2003) on municipal property in the light of the principles of the European Charter of Local Self-Government and Resolution 299 (2010) on 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);

e. its previous recommendation on local and regional democracy in Georgia (Recommendation 157 (2004));

f. the explanatory memorandum on local democracy in Georgia, drawn up following an official visit to Georgia from 10 to 12 June 2012.

2. The Congress recalls that:

a. Georgia signed the European Charter of Local Self-Government (ETS No. 122) on 26 October 2004 and ratified it on 8 December 2004 with entry into force on 1 April 2005, with “reservations” to 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 (CETS No. 207);

c. a Congress delegation² carried out a monitoring visit to Georgia from 10 to 12 June 2012 visiting Batumi, Tbilisi and Rustavi;

d. the rapporteurs of the Congress carried out a fact-finding visit in Georgia on 27 and 28 February 2013.³

3. The rapporteurs wish to thank the Permanent Representation of Georgia to the Council of Europe, 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 for the information conveyed to the delegation.

4. The Congress notes with satisfaction that:

a. substantial progress has been made in the field of local and regional democracy since the Congress visits to Georgia in 2003 and 2004 and the principles of the charter are to a large extent integrated into constitutional provisions;

b. the authorities have demonstrated a visible political will to take Congress recommendations into account, to integrate the guiding principles of local self-government into domestic legislation and, in general, to co-operate with the Council of Europe;

c. the regional development efforts have been considerable and have borne fruit, with Adjara as a dynamic and positive example;

d. the direct election of the Tbilisi mayor is considered to have been a success and might serve as an example to launch the debate on the issue of direct election of all mayors in the country;

e. the new government, formed after the parliamentary elections of 2012, has expressed its willingness to further develop and decentralise local government, indicating that the principles that underpin their reform strategy are subsidiarity, financial autonomy and citizen participation in local government;

f. the initial intention to abolish the Ministry for Regional Development and distribute its component functions between the Prime Minister’s office and the Ministry of Economy has been reconsidered and is no longer planned.

5. The Congress expresses concern that:

a. the principle of subsidiarity is still not enshrined in the Georgian Constitution and there are cases where some “field” laws enter into contradiction with the Organic Law. Substantial progress is still to be made through institutional and legislative changes, as regards decentralisation, local autonomy and political accountability;

b. although consultation with local authorities and their representatives worked well and NALAG had good standing in negotiations with the national authorities under the previous government, some communication issues appeared after the October 2012 parliamentary elections between NALAG and the government. If this situation persists, it

could have a negative effect on the good relations between local elected representatives and the government;

c. financial autonomy of local authorities continues to be a problem and their limited “own resources” make them dependent on government grants, with the risk, particularly during a financial crisis, of a reduction in these grants, which could limit their discretion in the use of their financial resources;

d. the equalisation formula may not be serving the interests of the weaker municipalities in that the share of the allocations they receive is not sufficiently high to enable an acceptable level of delivery of public services;

e. administrative control of municipalities is an issue in so far as existing legislation does not define standards for the auditing of local self-government entities, although international standards of auditing have been adopted. There is a shortage of qualified experts specialising in local self-government audit and a lack of “value for money” audits;

f. the recent incidents reported to the delegation during the fact-finding visit, involving pressure exerted on local elected representatives to resign their posts or change their party affiliation in favour of the new ruling party, have put local democracy in danger. They indicate a flawed perception (both on the part of the public and of the politicians) of local government as being directly dependent on national politics, bringing with it an expectation that changes in the central government should immediately be reflected in local government, regardless of the mandates obtained through democratic local elections.

6. In the light of this, the Congress requests the Committee of Ministers to invite the Georgian authorities to take account of the following recommendations:

a. amend the constitution so that the principle of subsidiarity is specifically recognised in the field of local government, by being mentioned as one of its guiding principles, and streamline the legislation, giving the Organic Law a prominent role regarding all issues touching upon local government;

b. recognise the representative position of NALAG as an interlocutor and partner and involve them in the discussions and negotiations regarding local and regional autonomy, including the newly announced reform project, ensuring at the same time the engagement of a wide range of stakeholders representing local government, as well as their territorial, thematic and professional associations;

c. enhance the financial capacity of local governments, including the capacity to generate their own resources, using all available means including enlarging the tax base;

d. improve the financial equalisation procedure (both as regards distribution and increasing the equalisation fund);

e. revise the existing legislation with the aim to provide standards for the auditing of local self-government entities, and provide training to experts in this field, with emphasis on “value for money” audits;

f. take immediate and effective action to ensure the autonomy and independence of local authorities and democratically elected representatives, so that national election results do not influence local government representative structure. The Congress urges the Georgian authorities to ensure that the provisions of the European Charter of Local Self-Government and, particularly, that of the preamble and of Articles 3, 6 and 7.1, as referred to in the report on the fact-finding mission to Georgia (CG/BUR(23)47), are fully observed and respected. The Congress calls on all political forces in the country to co-operate for the promotion of the independence and democratic functioning of local government;

g. continue the regional development efforts, ensuring a certain degree of continuity with regard to the regional development strategy and policies in existence, in order to consolidate what has been achieved;

h. consider the issue of direct elections for all mayors, in the light of the experience provided by Tbilisi;

i. 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 and ratifying, in the near future, the Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 159).

1. Debated and adopted by the Congress on 19 March 2013, 1st Sitting (see Document CG(24)10, explanatory memorandum), rapporteurs: Nigel Mermagen, United Kingdom (L, ILDG), and Helena Pihlajasaari, Finland (R, SOC).

2. According to the decision of the Monitoring Committee, Mr Ian Micallef (rapporteur for local democracy, Malta, EPP/CD) and Ms Helena Pihlajasaari (rapporteur for regional democracy, Finland, SOC) were appointed rapporteurs for Georgia and instructed to prepare and submit a report on local and regional democracy in Georgia. They were assisted by Mr Ilija Todorovski, consultant and member of the Group of Independent Experts on the European Charter of Local Self-Government. Following the termination of Mr Ian Micallef’s mandate as a member of the Congress in October 2012, the current recommendation is presented by Mr Nigel Mermagen (rapporteur for local democracy, United Kingdom, ILDG) and Ms Pihlajasaari.

3. According to the decision of the Bureau taken on 3 December 2012, the rapporteurs, Mr Nigel Mermagen and Ms Helena Pihlajasaari went to Tbilisi on 27 and 28 February 2013 where they met with national and local authorities. They drew up a fact-finding report which was submitted to the Bureau for adoption on 18 March 2013 (see CG/BUR(23)47).