

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Recommendation 341 (2013)¹ Local and regional democracy in Hungary

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 of the Council of Europe 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 above-mentioned Statutory Resolution CM/Res(2011)2, 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)REV2 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 116 (2002) on regional democracy in Hungary and the explanatory memorandum (CG(25)7PROV) to the present recommendation on local and regional democracy in Hungary.

2. The Congress recalls that:

a. Hungary became a member of the Council of Europe on 6 November 1990 and ratified the European Charter of Local Self-Government (ETS No. 122) on 21 March 1994, which came into force in respect of Hungary on 1 July 1994. It 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) on 16 November 2009 and ratified it on 7 June 2010;

b. The Congress Monitoring Committee instructed Artur Torres Pereira and Devrim Çukur to prepare and submit to the Congress a report on local and regional democracy in Hungary; they both visited Hungary from 23 to 25 May 2012.²

3. The rapporteurs:

a. thank the Permanent Representation of Hungary to the Council of Europe and all those who they met on the visit for their readiness to assist the delegation and for the information supplied. They also thank the Hungarian delegation to the Congress, the local and regional authority associations and the officials at the Ministry of the Interior who assisted with the organisation and smooth running of the visit;

b. welcome the ratification by Hungary on 7 June 2010 of the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority;

c. note with satisfaction that local authorities enjoy freedom of association for the purpose of furthering their interests.

4. Nevertheless, the rapporteurs regret that:

a. the principle of local self-government is neither explicitly enshrined in the Cardinal (Implementing) Act on Local Government nor in the Fundamental Law (Constitution);

b. there has been a very strong recentralisation of powers, which has led to the considerable reduction of competences previously assigned to local authorities;

c. the principle of the financial autonomy of local authorities is not respected;

d. the principle of local self-government is not complied with, as the competences of municipalities of less than 2 000 inhabitants are pooled at supra-communal (district) level and this is implemented through an administrative structure which is composed of civil servants from the State;

e. there is no real consultation in practice, but only a formal one, between the government and local authorities, in particular because of unreasonable deadlines;

f. there is no effective legal remedy which fully guarantees the protection of local self-government, with a genuine and extended right of local authorities to lodge a complaint with the domestic courts in order to secure the free exercise of their powers and respect for such principles of local self-government;

g. the position of the counties is weak in both their institutional framework and as regards their functions.

5. The Congress therefore recommends that the Committee of Ministers invite the Hungarian authorities to:

a. revise the Cardinal Act so that the principle of local self-government is explicitly guaranteed in the legislation and in practice, in accordance with Article 2 of the Charter;

b. revise the legislation concerning local authorities' mandatory tasks and functions so as to extend the range of powers normally assigned to them on the basis of the principles of decentralisation and subsidiarity;

c. grant local authorities financial autonomy to enable them to exercise their powers properly, in particular by adjusting the level of grants allocated by the central government to local authorities, so that their resources remain

commensurate with their powers, and by limiting central government supervision of the management of local finance so that it is proportionate within the meaning of Article 8 of the Charter;

d. ensure that local and regional authorities are equipped with the administrative structures and resources needed for performing their tasks, while at the same time ensuring that elected councils are retained, including in small municipalities;

e. consult local authorities and their national associations and define the consultation partners so that appropriate and effective consultation is arranged, in practice, within reasonable deadlines on all issues of interest to local authorities;

f. revise the legislation in order to provide local authorities with an effective judicial remedy to secure the free exercise of their powers and guarantee the judicial protection of the proper implementation of the basic principles of local self-government provided in the Charter, as ratified by Hungary;

g. strengthen the position of counties, notably in the light of the Reference Framework for Regional Democracy of the Council of Europe;

h. keep the Congress informed on the follow-up given to this recommendation.

6. The Congress invites the Committee of Ministers of the Council of Europe to take this recommendation into consideration in their respective monitoring procedures and other activities related to this member State.

1. Debated and adopted by the Congress on 29 October 2013, 1st Sitting (see document CG(25)7, explanatory memorandum); rapporteurs: Artur Torres Pereira, Portugal (L, EPP/CCE), and Devrim Çukur, Turkey (R, SOC).

2. They were assisted in their work by Ms Anne Gaudin, consultant, lecturer in public law at the Institute of Political Studies in Bordeaux, and by Ms Stéphanie Poirel, Secretary to the Monitoring Committee of the Congress.