

CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF EUROPE

Recommendation 104 (2001)¹ on local and regional democracy in the Federal Republic of Yugoslavia

The Congress,

1. Recalling Statutory Resolution (2000) 1 of the Committee of Ministers 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;

2. Recalling that while the Federal Republic of Yugoslavia has the power to enter into international commitments, including the legal instruments of the Council of Europe, its federated entities, that is the Republics of Serbia and Montenegro, are responsible for local authorities;

3. Recalling United Nations Security Council Resolution 244 placing the autonomous province of Kosovo under United Nations administration and considering accordingly that the present recommendation does not concern the situation in that territory;

4. Stressing that the future architecture of Yugoslavia will be the result of a broad debate between Serbia and Montenegro, which will be responsible for determining the framework of their future co-operation;

5. Expressing the wish that “a democratic Serbia and Montenegro within a democratic Yugoslavia” rapidly join the Council of Europe as soon as the essential reforms in the fields of pluralist democracy and human rights have been implemented;

6. Recalling the recent interim report of the Venice Commission on the constitutional situation of the Federal Republic of Yugoslavia and its conclusion on the future status of Montenegro and the necessity to draft new constitutions as soon as possible, not only for Yugoslavia, but also for Serbia and Montenegro;

7. With reference to the seminars and conferences organised by the Congress and the Council of Europe to foster and strengthen local democracy, in particular the Seminar on the European Charter of Local Self-Government held in Subotica in December 1998, in co-operation with the Local Democracy Agency, and the Conference for the Promotion of Local Self-Government, Transborder Co-operation and Regionalism in Serbia held

in Belgrade in June 2001 in collaboration with the Standing Conference of Towns and Municipalities of Yugoslavia;

8. Recalling the recent visits of the President of the Congress, Llibert Cuatrecasas, to Serbia and Montenegro;

9. Congratulating, for the time being, the Yugoslav authorities, the Standing Conference of Towns and Municipalities of Yugoslavia and the Union of Municipalities of Montenegro on having defined a procedure for appointing the members of the special guest delegation to the Congress (and on having appointed a delegation in conformity with the provisions of the Congress charter);

10. Welcoming the clearly expressed desire of the Serbian and Montenegrin authorities to allow the local authorities to manage a substantial share of public affairs, in conformity with Article 3 of the European Charter of Local Self-Government;

11. Convinced that the decentralisation of powers is a genuine opportunity to encourage participation by citizens, particularly members of minorities, in local institutions;

12. Welcoming the efforts of the Serbian and Montenegrin Governments to bring their legislation on local democracy into conformity with the principles of the charter and to set up democratic structures, with the assistance of the Council of Europe, on the basis of broad public consultation;

13. Thanking the participants meeting at different levels, the Council of Europe offices in Belgrade and Podgorica, as well as the representatives of the OSCE and the European Union for their precious collaboration;

14. Recalling the useful contribution made by the Local Democracy Agencies of Subotica and Niksic and the future Agency in Nis to the development of local democracy, intercultural dialogue, transborder co-operation and regionalisation, with the support of the Council of Europe (through the Congress and the Confidence-Building Measures Programme), its member states, in particular the Swiss and Irish authorities, and the towns, regions and NGOs that work in partnership with these Local Democracy Agencies;

15. In respect of Serbia:

a. stressing the major democratic progress achieved in recent months, in particular in Serbia in October 2000;

b. welcoming the decisive action of the mayors of the so-called “free” towns, run since 1996 by the democratic opposition, who encouraged the development of participatory action at local level and were the driving force behind the democratic turning point, often in partnership with other cities of Europe and with the assistance provided by international organisations, particularly the European Union;

c. recalling the observation of the parliamentary elections of 23 December 2000 by a delegation from the Congress and the conclusions of the rapporteur, Mr Mildon (Turkey);

d. taking note of the wish of the authorities of the autonomous province of Vojvodina that a large measure of autonomy be granted to their province;

e. considering that, in the context of a democratic Serbia within a democratic Yugoslavia, a specific statute of autonomy should be granted to Vojvodina, inspired by the statute which it enjoyed in the 1970s and 1980s;

f. convinced that broad decentralisation will help respond to the legitimate expectations of the minorities in Vojvodina and Sandjak, and of the Bulgarian and Albanian minorities (Presevo Valley);

g. stressing that decentralisation will strengthen democracy, citizen participation and the quality of public services while generally contributing to national cohesion;

h. noting that the debate on regionalisation in Serbia should also focus on the structures that might be proposed to the regions with large minorities;

i. welcoming the signature of the Covic Plan, which contributed to the pacification of southern Serbia;

j. convinced that the development of transborder co-operation in Serbia and Montenegro will contribute to the stabilisation of the country and help restore relations of trust with the neighbouring countries, and can therefore make an essential contribution to democratic stability in South-east Europe;

16. In respect of Montenegro:

a. taking note of the desire of the Montenegrin authorities to strengthen local democracy and therefore welcoming the broad consultation which the Montenegrin Government is putting in place for the preparation of the new laws;

b. recalling the observation by a delegation from the Congress of the early local elections held on 11 June 2000 and the parliamentary elections of 22 April 2001, and the conclusions of the rapporteurs, Mr Casagrande (France) and Mr Jirsa (Czech Republic);

c. stressing that the different communities in Montenegro have managed to continue living together in harmony;

d. taking into account the fact that participants met favourably with the idea of directly electing the mayor;

e. congratulating the local authorities of Niksic and Kotor and the Union of Municipalities of Montenegro on their involvement in the setting up of a Local Democracy Agency;

17. Invites the authorities of the Federal Republic of Yugoslavia:

a. to sign and ratify the Outline Convention on Transfrontier Co-operation and its additional protocols;

b. to sign and ratify the European Charter of Local Self-Government and the European Charter for Regional or Minority Languages, as soon as they join the Council of Europe;

c. to ensure that all the necessary constitutional changes take place to allow the towns and municipalities to have

access to land property, notably concerning the buildings that they have responsibility for;

d. to contribute to the establishment of a permanent forum of associations of local authorities of South-east Europe;

e. to support the organisation of the next Forum of Cities and Regions of South-East Europe in Novi Sad (18-20 April 2002), while welcoming the invitation issued by the authorities of that city;

18. Invites the Serbian authorities:

a. to continue to bring their legislation on local democracy into conformity, with the assistance of the Council of Europe, and to develop a political framework for the effective promotion of local self-government and the provision of the financial, human and material resources needed for its implementation;

b. to draft a new Constitution in the best possible time;

c. to ensure the decentralisation of powers and the implementation of appropriate systems of financing and equalisation to permit the exercise of local and regional self-government by the elected representatives, while making sure that the local finance system encourages municipalities to develop their own resources;

d. to ensure that structures and procedures exist for implementing decisions taken at municipal level, notably to ensure the collecting of local taxes and licences;

e. in case of dismissal of municipal councils or removal from office of mayors, to follow the entire procedure foreseen in the law and, preferably, to modify the law in a way that dismissals or removals should be pronounced, or at least effectively controlled, by a court;

f. to continue or step up the debate on regionalisation, bearing in mind the work done by the Congress and the Council of Europe in this field, particularly in respect of minorities;

g. to give back to the municipalities the competences that were taken away during the last 10 years to the profit of the districts and to review the latter's role in a perspective of decentralisation, voluntary groupings of municipalities and regionalisation;

h. to give thought to the structure of the future Ombudsman institution, including at local and regional level;

i. to strengthen local authority participation in existing public bodies at local level;

j. to note in the law the principle of consultation of associations representing local authorities in the field of the competences of the municipalities;

k. to not add limits to international co-operation between municipalities other than the ones fixed by the law or the Constitution, in conformity with Article 10 of the European Charter of Local Self-Government;

l. to implement without delay the programme concerning the crisis in southern Serbia of 10 February 2001 (called

the Civic Plan) and to define suitable measures for including the Albanian populations in municipal bodies in southern Serbia;

m. to rely on the Local Democracy Agencies of Subotica and Nis to develop local democracy, international partnership, transfrontier co-operation and economic links;

n. to request the Council of Europe's assistance in completing the implementation of a legal framework conducive to the development of local democracy, with particular reference to:

i. the law on capital cities and major towns and the organisation of relations with their municipalities;

ii. the law on territorial organisation;

iii. the provisions on local elections, consideration being given in this context to measures for ensuring that the electoral systems guarantee reasonable representation of minorities and help to improve parity;

iv. the provisions of the Law on the Election of the Parliament of the Republic of Serbia to allow the minorities to obtain the number of seats corresponding to their electoral power/weight;

v. provisions on local finance that match financial resources to responsibilities to ensure that there is enough;

vi. laws supplementing the provisions of Article 23 of the draft law concerning the powers devolved on municipalities, and introduction of the principle of subsidiarity into legislation;

vii. the status and training of elected representatives and municipal staff, drawing *inter alia* on the Code of Conduct of local and regional elected representatives;

viii. municipal property and public enterprises;

ix. associations of local authorities, noting with satisfaction that the right of association is one of the basic provisions of the Law on Local Self-Government;

x. effective remedies for municipalities and citizens;

19. Invites the Montenegrin authorities:

a. to continue to bring their legislation on local democracy into conformity, with the assistance of the Council of Europe, and to develop a political framework for the effective promotion of local self-government and provision of the financial, human and material resources needed for its rapid and effective implementation;

b. to draft a new Constitution in the best possible time;

c. to supplement the provisions relating to local self-government, *inter alia* by adopting and/or implementing:

i. the Law on Local Self-Government;

ii. the Law on Local Finance;

iii. the Law on Territorial Organisation;

iv. the Law on Local Elections allowing voters to clearly express their preference;

d. to ensure implementation of these laws well before the holding of regular local elections scheduled for 2002;

e. to ensure the decentralisation of powers and the implementation of adequate systems of financing and equalisation to permit the exercise of local and regional self-government by the elected representatives, while making sure that the local finance system encourages municipalities to develop their own resources;

f. to ensure that there exists structures and procedures allowing the carrying out of the decisions taken at municipal level, notably to ensure the collection of local taxes and licences;

g. to strengthen local authority participation in existing public bodies at local level;

h. to continue their efforts to preserve and develop peaceful coexistence between the different communities in the country;

i. to continue to develop infra-municipal bodies ("local communities") through which, particularly in rural areas, citizens are able to participate in public affairs;

j. to rely on the Local Democracy Agency of Montenegro situated in Niksic to develop local democracy, international partnership, transfrontier co-operation and economic links;

20. Invites the Parliamentary Assembly and the Committee of Ministers of the Council of Europe, in the framework of fixing the commitments entered into by the authorities of the Federal Republic of Yugoslavia when applying for membership with the Council of Europe, to pay particular attention to the following issues:

a. speedy adoption of new local government legislation, both in Serbia and in Montenegro, in compliance with the European Charter of Local Self-Government;

b. restitution of property rights to local government;

c. granting an appropriate status of autonomy to the Province of Vojvodina;

d. speedy implementation of the programme for the solution of the crisis in southern Serbia (6 February 2001);

e. adhesion to the Council of Europe Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities and its additional protocols;

f. signature and ratification (within one year) of the European Charter of Local Self-Government and of the European Charter for Regional or Minority Languages;

21. Invites the Council of Europe:

a. to step up its local democracy programmes through the Stability Pact and the Szeged Process;

b. to continue to support the LDA programme, particularly the Agencies in Subotica, Nis and Niksic, whose work will

make a useful addition to the initiatives developed by the Council of Europe to strengthen local democracy, for example through its Confidence-Building Measures Programme and voluntary contributions by member states;

22. Invites the European Union:

a. to support measures for the promotion of local democracy under the joint programmes with the Council of Europe;

b. to continue to support democratic municipalities and towns, in order to foster their economic and social transition;

c. to renew its support for the Local Democracy Agencies programme.

1. Debated and adopted by the Standing Committee of the Congress on 9 November 2001 (see Doc. CG (8) 24, draft recommendation, presented by Mr L. Roppe and Mr L. Kieres, rapporteurs).