

# THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

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## Recommendation 301 (2011)<sup>1</sup> Local and regional democracy in Turkey

1. The Congress of Local and Regional Authorities of the Council of Europe recalls that Turkey has been a member of the Council of Europe since 9 August 1949 and ratified the European Charter of Local Self-Government (ETS No. 122) on 9 December 1992, with accession taking effect on 1 April 1993.

2. The Congress refers to:

*a.* Article 2, paragraph 1.*b* of Committee of Ministers Statutory Resolution CM/Res(2007)6, which provides that one of the functions 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 CM/Res(2007)6, which provides 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 299 (2010) on the 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), which states that the Congress will use the Council of Europe Reference Framework for Regional Democracy in its monitoring activities.

3. The Congress recalls that the state of local and regional democracy in Turkey has been the object of a number of monitoring missions and fact-finding conducted by the Congress and these produced the 1997 report<sup>2</sup> and Recommendation 29 on the state of local and regional democracy in Turkey, an information report<sup>3</sup> in 2001, and a report<sup>4</sup> and Recommendation 176 on local and regional democracy in Turkey in 2005. In addition, a Congress delegation made a fact-finding visit to Turkey in 2007 to examine the situation in Sur/Diyarbakir and this resulted in Recommendation 229 (2007) on local democracy in Turkey.

4. It takes note of the monitoring report on local and regional democracy in Turkey (CG/MON(19)5REV1) drawn up by the rapporteurs Mr Anders Knape (Sweden, L, EPP/CD), Vice-President of the Congress, and Mr Herwig van Staa (Austria, R, EPP/CD), Chairman of the Institutional Committee<sup>5</sup> of the Chamber of Regions, following three official visits to Turkey on 25 to 27 February 2008, 12 to 14 January 2009 and 10 and 11 May 2010. The rapporteurs were assisted in their task by Professor Chris Himsworth,

consultant, Vice-Chairman of the Group of Independent Experts on the European Charter of Local Self-Government.

5. The Congress thanks the governmental authorities, the Turkish Congress delegation and its secretariat, elected representatives of the municipalities of Turkey, the Turkish Union of Municipalities and the Marmara Union of Municipalities, academics, representatives of political parties, non-governmental organisations and the international community in the country for the information provided and comments made during and after their meetings with the delegation.

6. It acknowledges the commitment of the Turkish Government towards institutional change until 2005 and the legislative reforms carried out and started in this context, as well as the fact that some of the reform projects have been continued.

7. It acknowledges the Turkish Government’s commitment to address the Kurdish issue through its Democratic Initiative.

8. The Congress notes with regret the following problems in the functioning of local and regional democracy in Turkey:

*a.* the period of rapid legislative developments in 2004-2005 has been followed by a period of reduced activity and the pace of reforming change in the field of local and regional democracy has slowed;

*b.* the provisions on administrative tutelage have been maintained in Article 127 of the Turkish Constitution and other laws and thus remain an obstacle to the general Turkish decentralisation project;

*c.* the way that the existing criminal and anti-terrorism legislation is being implemented has a disproportionately destructive effect on the functioning of local and regional democracy in Turkey and on the human rights of local and regional elected representatives;

*d.* no steps have been taken to implement Congress Recommendation 229 (2007), namely to permit municipal councils to use languages other than Turkish in the provision of public services when appropriate and to reform the Municipality Law to allow mayors and municipal councilors to take “political” decisions without fear of proceedings being taken against them;

*e.* 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), the European Charter for Regional or Minority Languages (ETS No. 148) and the Framework Convention for the Protection of National Minorities (ETS No. 157) have not been signed and ratified by Turkey;

*f.* the new Villages Law has not yet been finalised despite the fact that many former municipalities have lost that status and become villages through the recent Law No. 5747 of 2008 on establishing districts at the borders of metropolitan municipalities, which has amended other legislation;

g. the law anticipated in 2005 on municipal revenues has not yet been enacted and the enactment of the more limited Law No. 5779 on allocations from tax revenues under the General Budget to Special Provincial Administrations and municipalities has left municipalities even more heavily dependent upon centrally determined grants and has introduced new financial disciplines;

h. the Special Provincial Administrations still have no access to any of their “own resources” for their funding which varies substantially from one province to another;

i. although the governor has been removed from the presidency of the General Council, his position remains distinctly anomalous as he is the chairman of the Special Provincial Administrations’ executive committee and this puts the autonomy of provincial government into question in a situation where the Special Provincial Administration’s chief executive is, in effect, an appointee of the central government;

j. due to the high degree of involvement of governors in Special Provincial Administrations, governors appear to be the representatives of their Special Provincial Administrations in the Union of Special Provincial Administrations;

k. the overlapping roles of officials who hold (or have held) office in the ministry but also serve the Union of Special Provincial Administrations and/or the Turkish Delegation to the Congress may be reducing the institutional distance between the ministry and municipalities and thus (adversely) affecting the distinctive relationship between the two;

l. although the decision-making bodies of the Union of Special Provincial Administrations are democratically elected and allow different political parties to be represented, the statutory requirement that all municipalities be obliged to be members of the national Union of Turkish Municipalities has been maintained, lending it an undemocratic character in its removal of choice from individual municipalities and causing legitimate resentment in municipalities who feel that their particular interests and concerns are inadequately represented by the majority of member municipalities whose views they do not share.

9. The Congress recommends that the Committee of Ministers invite the Turkish authorities to:

a. take steps, as part of the efforts undertaken towards further constitutional reform, which we are confident are continuing, to improve the constitutional environment for strengthening decentralisation in the country, including the abolition of administrative tutelage maintained by both the constitution and other laws and the introduction of greater freedom to use languages of choice in the public services;

b. take steps, as part of the efforts undertaken towards reform of the institutions and procedures of the criminal and anti-terrorism law, to reduce the vulnerability of the system of local and regional democracy to infringements of the human rights of local and regional elected representatives;

c. complete the drafting and enactment of the new Villages Law;

d. implement the proposals for a new Revenues Law in respect of municipalities, Special Provincial Administrations and villages;

e. pursue the government’s Democratic Initiative, and in this context implement Congress Recommendation 229 (2007), namely to permit municipal councils to use languages other than Turkish in providing public services and to reform the Municipality Law to allow mayors and municipal councils to take “political” decisions without fear of proceedings being taken against them;

f. take the necessary steps to reduce the involvement of governors in the work of Special Provincial Administrations and the influence of governors over the Special Provincial Administrations’ operations. This should include a removal or at least a reduction of their influence in the Union of Special Provincial Administrations;

g. amend the law to restrict the grounds on which ministry approval of overseas links for municipalities and Special Provincial Administrations may be withheld;

h. consider the re-examination of Turkey’s obligations under the European Charter of Local Self-Government with a view to the removal of the reservations entered in respect of many of its terms;

i. take steps to 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;

j. take steps to sign and ratify the Framework Convention for the Protection of National Minorities;

k. take steps to sign and ratify the European Charter for Regional or Minority Languages;

l. take the lead, particularly through training programmes, in strengthening and supporting the decentralisation programme;

m. change the law which imposes on municipalities compulsory membership of the Union of Special Provincial Administrations.

10. The Congress recommends that the Union of Turkish Municipalities take the lead in raising consciousness among its members in relation to their rights guaranteed under the European Charter of Local Self-Government.

11. It recommends that the Parliamentary Assembly take account of the preceding observations and recommendations in monitoring the extent to which the commitments undertaken by Turkey have been honoured.

1. Debated and adopted by the Congress on 24 March 2011, 3rd Sitting (see Document [CG\(20\)6](#), explanatory memorandum), rapporteurs: A. Knape, Sweden (L, EPP/CD) and H. Van Staa (R, EPP/CD).

2. CG(4) 3 Part II.

3. CG/INST(8) 27.

4. CG(12) 25.

5. Following the Congress reform, the monitoring activities carried out by this committee were taken over by the Monitoring Committee set up on 1 December 2010.