

# THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

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## Recommendation 351 (2014)<sup>1</sup> Local democracy in Armenia

1. The Congress of Local and Regional Authorities of the Council of Europe refers to:

*a.* Article 2.1.b of Statutory Resolution CM/Res(2011)2 of the Committee of Ministers on the Congress of Local and Regional Authorities of the Council of Europe, which provides that one of the aims of the Congress is “to submit proposals to the Committee of Ministers in order to promote local and regional democracy”;

*b.* Article 2.3 of the aforementioned 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 140 (2003) and its Resolution 167 (2003) on local democracy in Armenia adopted by the Congress in November 2003;

*e.* the explanatory memorandum to the present recommendation on local democracy in Armenia.

2. The Congress notes that Armenia signed the European Charter of Local Self-Government (ETS No. 122) on 11 May 2001 and ratified it on 25 January 2002; it entered into force in respect of Armenia on 1 May 2002. Armenia stated that it does not consider itself bound by Articles 5, 6, 7.2 and 10.3 of the Charter.

3. It notes that:

*a.* the Monitoring Committee instructed Nigel Mermagen, rapporteur on local democracy,<sup>2</sup> to prepare and submit to the Congress the report on local democracy in Armenia;

*b.* The monitoring visit to Armenia took place from 26 to 28 November 2013 in Yerevan, Ashtarak and Oshakan.

4. The Congress wishes to thank the Permanent Representation of Armenia to the Council of Europe and the Armenian authorities at central and local levels, representatives of Armenian NGOs working in the field of development of local authorities as well as other interlocutors for their valuable cooperation at different stages of the

monitoring procedure and the information conveyed to the delegation.

5. The Congress notes with satisfaction that:

*a.* Armenia has made significant efforts to implement the provisions of the Charter, starting with important constitutional changes in 2005 and following up with the adoption of the new law on Local Self-Government of Yerevan in 2008;

*b.* progress has been made in clarifying the legal status of local government officials and in organising vocational training for them;

*c.* Armenia ratified 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 13 May 2013 with entry into force in respect of Armenia on 1 September 2013 and that new legislation was adopted immediately afterwards with the aim of strengthening citizens’ participation in local government;

*d.* the Council of Europe project “Support to the consolidation of local democracy in Armenia”, in which the Congress of Local and Regional Authorities is also involved, was launched in February 2014 with the support of the Danish Government.

6. The Congress draws attention however to the following points of concern:

*a.* local authorities take part in service delivery only to a limited extent and they do not regulate and manage “a substantial share of public affairs under their own responsibility” (Article 3.1 of the Charter);

*b.* the existence of numerous small and weak municipalities continues to be a structural problem, creating imbalance between local authorities and limiting the service delivery capacity of municipalities;

*c.* the weak capacity of local councils in the exercise of their initiatives with regard to all matters relating to their competences (Article 4.2 of the Charter);

*d.* local authorities play a very limited role and in practice do not have always full and exclusive powers, with local government bodies serving more as agents for the central government, than as autonomous actors in local government administration (Article 4.4 of the Charter);

*e.* the “own” responsibilities and delegated powers of local authorities while defined in law are not applied in practice (Article 4.5 of the Charter);

*f.* the absence of a formal mechanism of consultation between central government and local authorities on decision making processes relating to all matters which concern them directly (Article 4.6 of the Charter);

*g.* the control carried out by central government extends not only to the legality of the local authorities’ action, but also to the economic and financial aspects of local government matters, in contradiction to the Charter provisions (Article 8.2 of the Charter);

h. local authorities have limited own resources (Article 9.1 of the Charter);

i. local authorities cannot impose real local taxes or determine the rate within reasonable limits set by law (Article 9.3 of the Charter);

j. the financial equalisation mechanisms are not appropriate as regards the fiscal capacities and financial needs of municipalities (Article 9.5 of the Charter) and the other State transfers for the allocation of grants are not regulated by any law (Article 9.7 of the Charter).

7. In the light of this, the Congress recommends that the Armenian authorities:

a. review the legislation in order to better implement the principle of subsidiarity and to allow the local authorities to regulate and manage a substantial share of public affairs under their own responsibility and in the interest of the local populations;

b. improve and strengthen territorial governance in order to make it more effective through, for instance, inter-municipal co-operation or mergers of small municipalities and to mitigate the over-centralisation of public administration;

c. increase the capacity (legally and in practice) of the municipal councils with regard to all matters related to their competences, in order to increase the efficient administrative capacity of local authorities and strengthen their role and importance in relation to the chief executives;

d. ensure that local authorities enjoy full and exclusive powers, as autonomous actors in local public administration, and do not have these powers undermined by the central authorities;

e. clarify the administrative nature of the various tasks and functions that fall within the scope of local government, particularly as regards whether they are mandatory or delegated powers, and strengthen the position of local authorities by leaving the management of important local matters to the discretion of local authorities;

f. set up a formal consultation mechanism in domestic law, to ensure that local authorities and national associations of local authorities are duly consulted on matters which concern them directly “in due time and in an appropriate way” (Article 4.6 of the Charter), and that central government decisions are accessible to local elected representatives and their associations, which should be considered in practice as privileged and active partners;

g. ensure that the administrative supervision of local authorities is limited to a review of the legality of their action, and that the controlling authority’s intervention is kept in proportion to the importance of the interests which it is intended to protect;

h. increase the “own” financial resources of local authorities as required at 7.a and 7.c of the present recommendation;

i. improve the efficiency of the tax mechanism in municipalities, by allowing them the right to determine the rate within reasonable limits set by law in order to strengthen their autonomy;

j. review the financial equalisation mechanism in order to implement it in the most appropriate way, and develop measures for the allocation of equalisation grants on the basis of fiscal capacities and financial needs of communities, in order to correct the effects of the unequal distribution of potential sources of finance, in accordance with Article 9.5 of the Charter;

k. review the relevance of the declarations made by Armenia on Articles 5, 6, 7.2, and 10.3 of the Charter at the time of deposit of this instrument in the light of the recent developments which occurred in Armenia in this respect;

l. take into account the present recommendation in the implementation of the Council of Europe project “Support to the consolidation of local democracy in Armenia”.

8. The Congress invites the Committee of Ministers of the Council of Europe to take account of the present recommendation on local democracy in Armenia, as well as its explanatory memorandum, in its respective activities related to this member State.

1. Debated and approved by the Chamber of Local Authorities on 26 March 2014, and adopted by the Congress on 27 March 2014, 3rd Sitting (see Document [CPL\(26\)2FINAL](#), explanatory memorandum), rapporteur: Nigel Mermagen, United Kingdom (L, ILDG).

2. By letter of 10 February 2014, Ludmila Sfirloaga, Romania (R, SOC), rapporteur on regional democracy in Armenia, informed the Chair of the Monitoring Committee that she was standing down as rapporteur, due to health problems which occurred during the monitoring exercise in Armenia.

In their work, the rapporteurs were assisted by Zoltán Szente, consultant, member of the Group of Independent Experts on the European Charter of Local Self-Government, Stéphanie Poiré, secretary to the Congress Monitoring Committee, and Jane Dutton-Early, co-secretary to the Monitoring Committee.