

# THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

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## Recommendation 258 (2008)<sup>1</sup> Local democracy in Belgium: non-appointment by the Flemish authorities of three mayors

The Congress, bearing in mind the proposal of the Chamber of Local Authorities:

1. Refers to Article 2, paragraph 1.b, of Statutory Resolution (2000) 1 relating to the Congress of Local and Regional Authorities of Europe, which stipulates that one of the objectives of the Congress is “to submit proposals to the Committee of Ministers in order to promote local and regional democracy”, and to Article 2-3 of Statutory Resolution (2007) 6 of the Committee of Ministers.

2. Takes note of the information report on the fact-finding visit to Belgium concerning the non-appointment by the Flemish authorities of three mayors (13 and 14 May 2008, CPL(15)8REP), drafted by Michel Guegan (France), member of the Institutional Committee of the Chamber of Local Authorities of the Congress and Dobrica Milovanovic (Serbia), substitute member of the Institutional Committee of the Chamber of Regions of the Congress.

3. Thanks the government and parliamentary authorities, the regional and municipal elected representatives of Belgium, the associations of Belgian towns and municipalities, as well as the academics and experts involved, for the information supplied and comments made at their meetings with the delegation.

4. Considering that Belgium ratified the European Charter of Local Self-Government on 24 August 2004, with effect from 1 December 2004 and that it made reservations with regard to Article 3, paragraph 2, Article 8, paragraph 2, and Article 9, paragraphs 2, 6 and 7.

5. Considering Recommendation 131 (2003) of the Congress on local democracy in Belgium.

6. Notes the following problems with regard to the functioning of local democracy in Belgium:

*a.* the Flemish authorities’ failure to appoint three elected mayors within a reasonable timeframe has disrupted the proper management of public affairs;

*b.* the Belgian language laws, as interpreted and applied by the Flemish government in municipalities with so-called special arrangements, make it difficult for French-speaking Belgian citizens to take part in local affairs. This situation is incompatible with the spirit of the Charter which was ratified

by Belgium and, in particular, with consideration 5 of the preamble, which points out that citizen participation is a fundamental principle of local democracy;

*c.* the refusal to appoint three mayors as a form of penalty is disproportionate given that no disciplinary proceedings have been initiated against the three mayors. This situation is incompatible with Article 8, paragraph 3, of the European Charter of Local Self-Government;

*d.* the Flemish authorities’ supervision of local authorities, in particular the appointment of elected mayors by the government, is incompatible with the general spirit of the Charter, in particular the preamble and Articles 4 and 8 of the Charter;

*e.* Recommendation 131 (2003) of the Congress, which recommended that the Belgian authorities adopt the system where mayors are elected by the population or by the municipal council rather than appointed by the government, has still not been implemented neither in the Flemish region nor in Brussels-capital region.

7. *Recommends that the Belgian authorities:*

*a.* encourage the Flemish Minister of the Interior to appoint, without further delay, the three mayors whose lists were elected so as to put an end to the disruption in the management of public affairs;

*b.* review the language laws and, in particular, the way in which they are applied in municipalities with so-called special language arrangements, to allow the use of both French and Dutch by municipal councillors and by the mayor and aldermen at the meetings of the municipal council;

*c.* encourage the adoption of the system of election of mayors by the municipal council or by the citizens, which would reduce the regional authorities’ control of the municipalities and ensure compliance with the relevant provisions of Recommendation 131 (2003) of the Congress;

*d.* reconsider the reservations they lodged with regard to Article 3, paragraph 2, Article 8, paragraph 2, and Article 9, paragraphs 2, 6 and 7, and thereby undertake to comply with all the provisions set out in the European Charter of Local Self-Government.

8. *Recommends that the Committee of Ministers* transmit this recommendation to the Belgian authorities.

9. *Recommends that the Parliamentary Assembly, the European Commission against Racism and Intolerance (ECRI) and the Commissioner for Human Rights* take account of the above observations and recommendations when considering whether Belgium has honoured its commitments.

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1. Debated and approved by the Standing Committee of the Chamber of Local Authorities on 2 December 2008 and adopted by the Standing Committee of the Congress on 3 December 2008 (see Document CPL(15)8REC, draft recommendation prepared by M. Guégan (France, L, NR) and D. Milanovic (Serbie, R, NR), rapporteurs).