

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Recommendation 342 (2013)¹ Local democracy in Ireland

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 relating to the Congress of Local and Regional Authorities of the Council of Europe and the revised Charter appended thereto, which stipulates 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, paragraph 3, of the above-mentioned Statutory Resolution CM/Res(2011)2, which stipulates 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 219 (2007) on the status of capital cities, and its Recommendation 132 (2003) on municipal property in the light of the principles of the European Charter of Local Self-Government;

e. its Resolution 299 (2010) on 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, as well as the reply given by the Committee of Ministers to Congress Recommendation 282 (2010) (CM/CONG(2011)Rec282final), encouraging the governments of member States to take account of the above-mentioned reference framework in their policies and reforms;

f. its Recommendation 97 (2001) on local democracy in Ireland;

g. the explanatory memorandum (CPL(25)5) on local democracy in Ireland, presented by Andris Jaunsleinis² and Merita Jegeni Yildiz.

2. The Congress recalls that:

a. Ireland signed the European Charter of Local Self-Government (ETS No.122) on 7 November 1997 and ratified it on 14 May 2002 with a declaration to the effect that Ireland intends to confine the scope of the Charter to the following categories of authorities: county councils, town councils and district councils;

b. Ireland has not 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).

3. The Congress delegation carried out two official visits to Ireland from 3 to 5 October 2012 and on 3 May 2013.³

4. The delegation would like to thank the Permanent Representation of Ireland to the Council of Europe and the Irish authorities at all levels of government, the associations of local and regional authorities, experts and other interlocutors for their interest in the Congress’ work, their co-operation throughout the visit and for the information conveyed to the delegation.

5. The Congress:

a. notes with satisfaction that important changes have been accomplished since the last recommendation and that the basic legal framework is now established for local and partly also for regional authorities;

b. takes note that the local authorities in Ireland, in spite of various structural and financial issues, have a strong connection to their citizens and deliver services adequately;

c. acknowledges the commitment of the Irish authorities to move from a very centralised system to a certain level of decentralisation;

d. welcomes the Action Programme adopted in October 2012 by the Irish Government, which provides a clear commitment on the part of the government to expand the local government’s responsibilities.

6. The Congress expresses its concern that:

a. the constitutional protection of local self-government is rather weak and the principle of subsidiarity is not properly reflected and guaranteed in the legislation;

b. local governments do not manage a substantial share of public affairs: local authorities are still waiting for a strong decentralisation effort and the delegation of relevant competences and financial independence to the local and regional level;

c. consultations with local authorities and their associations are neither systematic nor sufficiently regulated to allow the latter to be involved in the decision-making process on matters which concern them and, in the present context, to make an input into the proposed reform;

d. the administrative supervision of local authorities’ activities by the central level remains disproportionate and, under this system, the powers given to local authorities are not full and exclusive;

e. the equalisation mechanism is not transparent and, although local governments have the formal freedom to adopt budgets, such freedom is severely limited in practice;

f. the scale of local taxes and the power of local authorities to determine the rates are very limited;

g. conditions of office of local elected representatives are insufficiently regulated by general legislation (Labour Code).¹

7. In the light of the above, the Congress requests that the Committee of Ministers invite Irish authorities to take account of the following recommendations, to:

a. revise their legislation in order to ensure that the subsidiarity principle is better enshrined and protected in the law and to promote this basic principle in practice in the Irish public administration system;

b. implement the Action Programme rapidly in order to devolve more powers and responsibilities to local and regional authorities and delegate relevant competences and financial resources to the local and regional levels;

c. develop the procedures and mechanisms of consultation with local and regional authorities on matters concerning them directly both in legislation and in practice, taking into account the criteria provided in Article 4, paragraph 6, of the Charter, namely, “in due time” and “in an appropriate way”;

d. take the necessary measures to amend existing legislation which allows the central government to intervene in local decision making and ensure that the Action Programme does not increase the level of supervision even more through the establishment of an additional National Oversight Office to monitor the efficiency of local authorities’ activities including, *inter alia*, their compliance with national objectives and policies;

e. review the equalisation mechanism in order to make it transparent and ensure that the rules pertaining thereto are established in consultation with the local authorities;

f. ensure that, in practice, local governments have the power to levy taxes and determine effectively the rates within the limits of the law;

g. consider establishing a clear and specific legislative basis regarding the conditions of office of local elected representatives, particularly as relates to rules for private employers to provide “free time” to elected officials to allow their participation in local matters;

h. encourage the Irish Government to consider opening the debate on further developing the regional tier of government, with the possibility of putting in place a system of direct election of regional representatives and delegating real responsibilities in the delivery of “regional” public services;

i. invite the Irish Government to sign the Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 159) and the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority.

1. Debated and approved by the Chamber of Local Authorities on 30 October 2013, and adopted by the Congress on 31 October 2013, 3rd Sitting (see Document CPL(25)5, explanatory memorandum; rapporteurs: Andris Jaunsleinis, Latvia (L, ILDG) and Merita Jegeni Yildiz, Turkey (R, EPP/CCE)).

2. The co-rapporteur Michael Cohen is no longer a member of the Congress since September 2013. A new co-rapporteur has been appointed by the Chair of the Monitoring Committee in accordance with Resolution 307 (2010)REV2.

3. In their work, the rapporteurs were assisted by Professor Juraj Nemeč, consultant, who is a member of the Group of Independent Experts on the European Charter of Local Self-Government, and by Sedef Cankoçak, Co-Secretary of the Monitoring Committee of the Congress.