

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Recommendation 293 (2010)¹ Local democracy in Montenegro

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(2007)6 of the Committee of Ministers relating to the Congress of Local and Regional Authorities of the Council of Europe, which provides that one of the aims of the Congress shall be “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(2007)6, 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. the explanatory memorandum on local democracy in Montenegro drawn up by the rapporteur, Nigel Mermagen, following an official visit to Montenegro from 22 to 24 March 2010. During his work, the rapporteur was assisted by Christopher Himsforth, consultant, who is a member of the Group of Independent Experts on the European Charter of Local Self-Government, and by Lilit Nikoghosyan, co-secretary of the Institutional Committee of the Congress.

2. The Congress recalls that:

a. Montenegro signed the European Charter of Local Self-Government (ETS No. 122) on 24 June 2005 and ratified it on 12 September 2008 with a commitment to observe the following paragraphs:

Article 2;

Article 3, paragraphs 1 and 2;

Article 4, paragraphs 1, 2, 4 and 6;

Article 5;

Article 6, paragraph 1;

Article 7, paragraphs 1 and 3;

Article 8, paragraph 1;

Article 9, paragraphs 1, 2, 3, 4, 5, 6, 7 and 8;

Article 10, paragraphs 1, 2 and 3;

Article 11;

b. Montenegro 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) on 16 November 2009;

c. the Institutional Committee decided on 15 February 2010 to carry out the first monitoring of the state of local

self-government in Montenegro and its compliance with the European Charter of Local Self-Government. It instructed Nigel Mermagen (United Kingdom, L, ILDG) to prepare and submit to the Congress, as rapporteur, the report on local democracy in Montenegro.

3. The Congress wishes to thank the Montenegrin authorities at central and local levels, the Union of Municipalities, experts and other interlocutors for the information conveyed to the delegation.

4. It notes with satisfaction that:

a. the Constitution of Montenegro provides a clear basis for local self-government. Its relevant provisions taken together with the Law on Local Self-Government of 2003 (as amended) and the draft law on territorial organisation do make good provision for the formal recognition, in domestic legislation and in the constitution, of the principle of local self-government, as required by Article 2 of the charter;

b. there exists widespread acknowledgment of the need for the reform of local self-government, especially at the level of the national government, the relevant ministry currently being the Ministry of the Interior and Public Administration;

c. in the recent decade there has been considerable focus on reform programmes; this is a continuing process and one in which co-operation with the Council of Europe has been a prominent feature;

d. the provision for administrative supervision, which was enabled through the recently enacted Law on Amendments to the Law on Administrative Supervision in 2009, appears to be Charter compatible;

e. the capacity-building contribution of several of the non-governmental organisations (NGOs) active in Montenegro extends to training programmes for municipal councillors.

5. The Congress concludes that:

a. overall the provisions made in the constitution regarding local self-government, in the 2003 Law and in other texts are charter compatible. However, the legislative framework in Montenegro continues to be in flux. Several new pieces of legislation are already in the parliamentary process and others are at a preparatory stage;

b. the current situation reflects the commitment which has been shown in recent years on the part of the Ministry of the Interior and Public Administration, as well as its counterparts in the municipalities and the Union of Municipalities, to the reform of local self-government in the country on the basis of certain principles.

6. The Congress recommends that the Committee of Ministers invite the Montenegrin authorities to take account of the following suggestions with a view to future reforms:

a. initiate a reform of the voting system for the election of mayors and municipal councillors. Substantial changes in the local election law of Montenegro could provide either for the replacement of list voting by constituency/ward representation (perhaps based on the single transferable vote

system) or, at the very least, by substitution of an open list system;

b. aim to achieve a full separation of the laws on the two election systems (national and local). This would have the benefit of allocating to local democracy the distinctive treatment it deserves. It would also more readily enable the introduction of a “resident” rather than a “citizen” franchise;

c. take steps to enhance the workforce capacity of municipalities by continuing to provide adequate training and technical support for municipal staff. More particularly, the efforts made at the different levels of government and with strong intervention from the Union of Municipalities (following its Training Needs Analysis of 2007) and international organisations to devise and implement a National Training Strategy should be pursued. In the medium and longer term this will contribute greatly to staff competence in the municipalities;

d. create the necessary conditions and take appropriate measures, in co-operation with the Union of Municipalities of Montenegro, to ensure a coherent and robust use of co-operation by municipalities to enable the joint delivery of services. If the smaller and the least resourced municipalities could perform tasks jointly, this would be much better, in the evident absence of enthusiasm on the part of either government or municipalities for mergers, than inappropriate intervention by central government or complete service failure;

e. encourage and promote, in co-operation with the Union of Municipalities of Montenegro, better inter-regional co-operation between Montenegrin municipalities and their neighbouring counterparts;

f. ensure that the standard financial resources available to all municipalities are sufficient for them to carry out their statutory responsibilities without regular recourse to equalisation payments;

g. reconsider the restrictions on the extent of the charter articles by which Montenegro is bound with a view to lifting some or all of them.

7. The Congress recommends to the Union of Municipalities of Montenegro that it uses its political influence to the full and strikes the right balance between co-operation with central government and the robust maintenance of the autonomy of local self-government.

8. The Congress recommends that the Parliamentary Assembly of the Council of Europe take account of these observations and recommendations by monitoring the commitments and obligations which Montenegro undertook when acceding to the Council of Europe.

9. The Congress recommends to the Montenegrin authorities responsible for local self-government that they appoint a high-level government representative to attend one of the Congress sessions to make a presentation of the progress of local self-government reforms in Montenegro.

1. Debated and approved by the Chamber of Local Authorities on 26 October 2010 and adopted by the Congress on 28 October 2010, 3rd Sitting (see Document [CPL\(19\)4](#), explanatory memorandum), rapporteur: N. Mermagen, United Kingdom (L, ILDG).