

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Recommendation 217 (2007)¹ Local democracy in “the former Yugoslav Republic of Macedonia”

The Congress, acting upon a proposal from the Chamber of Local Authorities,

1. Referring to:

a. Article 2, paragraph 1.*b.*, of Statutory Resolution (2000) 1 of the Committee of Ministers relating to the Congress of Local and Regional Authorities of Europe, which provides 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”;

b. Article 2, paragraph 3 of the said resolution, which states 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 Resolutions 31 (1996), 58 (1997) and 106 (2000), setting out the guidelines for drafting the reports referred to above;

2. Drawing attention to its Recommendation 82 (2000) and Resolution 100 (2000) on the situation of local democracy in “the former Yugoslav Republic of Macedonia”;

3. Taking note of the report on local democracy in “the former Yugoslav Republic of Macedonia” (CPL(14)2REP) drawn up by Jean-Claude Frécon (France, L, SOC), rapporteur, following two official visits: the rapporteur’s substitute, Michel Guegan (France, L, NR), visited Skopje, Struga and Gostivar on 30 and 31 January 2006 and Jean-Claude Frécon made a further visit to Skopje from 20 to 22 February 2007 – the rapporteur and his substitute were assisted in this task by Mr Jean-Marie Woehrling, consultant (France), member of the Group of Independent Experts on the European Charter of Local Self-Government, whom the Congress wishes to thank for his contribution;

4. Thanking all the governmental authorities, the elected representatives of the municipalities of “the former Yugoslav Republic of Macedonia”, the Association of the Units of Local Self-Government (ZELS) and the experts and representatives of the international community in the country for the information provided and comments made during their meetings with the rapporteur;

5. Thanking also Mr Michel Rivollier and Mr Gjorgji Jovanovski, members of the Council of Europe Information Office in Skopje, for their assistance in organising the rapporteur’s visits;

6. Considering that:

a. the European Charter of Local Self-Government (ETS No. 122) has been signed and ratified by “the former Yugoslav Republic of Macedonia” and entered into force on 1 October 1997;

b. the Congress’s Recommendation 82 (2000) on the situation of local democracy in “the former Yugoslav Republic of Macedonia” revealed serious shortcomings in local democracy there, emphasising the inadequacy of resources available to the municipalities;

c. the question of strengthening local democracy in “the former Yugoslav Republic of Macedonia” took on a new dimension from 2002, since decentralisation was part of the 2001 Ohrid Framework Agreement;

d. the 1995 Law No. 52/95 on Local Self-Government was revised in 2002; however, although it comprises numerous improvements, the revision does not radically alter the organisation of local authorities, as it refers to other implementing texts;

e. a territorial reorganisation took place in 2004, in accordance with Law No. 55/04 of 16 August 2004 on the Organisation of Local Self-Government Units, reducing the number of municipalities from 124 to 84, unfortunately without adequate consultation of the municipalities concerned, and following the adoption of the Law on the City of Skopje;

f. the process of strengthening local authorities began in July 2004, with, in particular, the adoption of a Law on Local Finances, the increase of powers of municipalities particularly in matters of urban planning, and the implementation from July 2005 of a programme of transfers to the municipal level of certain infrastructure facilities (along with their budgets and staff) such as primary and secondary schools, museums and libraries as well as a number of social establishments (retirement homes, welfare centres, care centres, fire services and kindergartens);

7. Noting with satisfaction that:

a. the measures taken by the authorities of “the former Yugoslav Republic of Macedonia” since 2001, and more particularly 2005, represent a significant change and marked progress towards better local democracy;

b. local authorities have, on the whole, coped satisfactorily with their new responsibilities and standards of local service have improved;

c. co-operation between municipalities and central government has been stepped up, particularly with regard to the association of local authorities (ZELS), whose role is confirmed by Section 81 of the Law on Local Self-Government: in March 2003, the Minister for Local Self-Government and the President of ZELS signed a memorandum of

understanding in which they agreed on joint action in the context of decentralisation;

8. Noting the following problems in the functioning of local democracy in “the former Yugoslav Republic of Macedonia”:

a. the Law on Local Self-Government formally attributes extensive powers and responsibilities to local authorities, but for a true picture of these powers and responsibilities, however, reference has to be made to numerous special laws which set out the rules in detail;

b. these special laws in many cases restrict the powers conferred in the general legislation and often available resources are not sufficient to allow for full implementation of the powers transferred;

c. “the former Yugoslav Republic of Macedonia” has not signed and ratified the Convention on the Participation of Foreigners in Public Life at Local Level (ETS No. 144),

9. Recommends that the authorities of the “the former Yugoslav Republic of Macedonia”:

a. undertake a gradual process of assigning responsibilities to municipalities and provide them with additional resources, since at present the extra responsibilities transferred to the municipalities are still relatively limited;

b. ensure that the new control mechanisms for evaluating finances and local staff management are continuously assessed to make sure that they do not recreate a situation in which local managers are once again dependent on central bodies, thereby leading indirectly to re-centralisation;

c. strengthen further the skills and professionalism of municipal staff by ensuring that there is genuine expertise in local management and inculcating a new “culture” whereby questions are addressed not from a partisan perspective but with a view to public efficiency and quality of service to the public;

d. provide local authority staff with genuine conditions of service that facilitate neutral, impartial and professional work;

e. pursue efforts to provide vocational training for local government servants and improve their technical abilities; the many initiatives under way in this area must be properly co-ordinated among all the relevant stakeholders;

f. increase without delay the actual share of local taxes (or the municipalities’ share of VAT and income tax) and at the same time reduce state subsidies;

g. ensure that the situation regarding municipalities’ tax resources and allocations from central government is transparent;

h. clearly adopt the “principle of concomitant financing” – that is, to ensure that all transfers of responsibilities to local

authorities are accompanied by the transfer of resources equal to those which central government allocated to the activities in question – and ensure that compliance with this principle is supervised by a committee of independent experts;

i. consider, on the one hand, the possibility of entrusting the task of updating property registration and collecting the relevant taxes to a single authority answerable both to central government and the municipalities, and, on the other, the possibility of local taxes being collected by central government on the municipalities’ behalf;

j. take additional measures to establish reasonable but also transparent and objective requirements for municipal borrowing;

k. increase in stages the municipalities’ share of total public resources to reach levels comparable with those found in other European countries of similar size (approximately 16%, corresponding to 8% of the gross domestic product);

l. ensure that municipalities hold a reasonable proportion of public property within their boundaries: to this end, the state must agree to the transfer to the municipalities of all buildings used for local public tasks, together with a proportion of land needed for pursuing a municipal development policy; this property transfer may be subject to various conditions and obligations regarding use of the buildings or land but a total overhaul of the land registry is not necessarily a prerequisite for beginning the transfer;

m. grant greater powers of scrutiny to municipal councils and the public, in particular by strengthening the participation of members of the municipal council in the audit process in the internal audit bodies set up in local government, placed under the authority of the mayor;

n. adopt measures to improve the effectiveness of the boards provided for in Sections 15 and 46 of the Local Taxation Act (to whose authority the ministry does not appear to grant sufficient importance) as forums for discussion, consultation and proposals on monitoring the law and as a mechanism for seeking consensus;

o. strengthen the municipalities’ operational capabilities enabling them to establish a real policy of local development, given that so far it is chiefly management responsibilities which have been delegated (management of schools, museums, etc.); this presupposes, as indicated above (paragraph 9.1), that the question of the ownership of public land is addressed;

p. make provision for a single ministerial authority (preferably the Ministry of Local Self-Government, with the backing of the Prime Minister) to direct and supervise the whole decentralisation process so as to ensure that all ministerial departments abide by the policy;

q. consider setting up a body for settling specific disputes and disagreements between municipalities and central government departments, which would be neutral, impartial and

technically competent; the body could be a specialised administrative court or a non-judicial mediation board;

r. sign and ratify the Council of Europe's Convention on the Participation of Foreigners in Public Life at Local Level;

10. Recommends that the municipalities make full use of the powers transferred to them, by strengthening their administrative services and recruiting qualified staff, mainly specialists in town-planning law, schools inspectors and financial administrators;

11. Recommends that the Committee of Ministers transmit this recommendation and its explanatory memorandum to the authorities of "the former Yugoslav Republic of Macedonia";

12. Recommends that the Parliamentary Assembly take account of the preceding observations and recommendations in monitoring the extent to which the commitments undertaken by "the former Yugoslav Republic of Macedonia" have been honoured;

13. Recommends that the authorities of "the former Yugoslav Republic of Macedonia" responsible for local and regional government:

a. appoint a senior representative of the government to attend one of the Congress sessions in order to give an interim presentation on the measures taken and/or planned to implement the recommendation;

b. take note that (according to the new Congress compliance procedure) the authorities of "the former Yugoslav Republic of Macedonia" will be invited to submit, within a reasonable time frame, a report for the attention of the President of the Congress on implementation of the measures set out in this recommendation.

1. Debated and approved by the Chamber of Local Authorities on 30 May 2007 and adopted by the Congress on 1 June 2007, 3rd Sitting (see Document CPL(14)2REC, draft recommendation presented by J.-C. Frécon (France, L, SOC), rapporteur).